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Tuesday
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Briefings on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room I
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505-768-3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202-523-4534

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Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law Numbers and the Federal Register Table of Contents is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 57, No. 222
Tuesday, November 17, 1992

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 92-049-2]

Black Stem Rust; Addition of Rust-Resistant Varieties of Berberis Thunbergii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the black stem rust quarantine and regulations to add *Berberis gladwynensis* 'William Penn', *Berberis koreana* X *Berberis thunbergii* hybrid *Bailsel, Berberis koreana* X *Berberis thunbergii* hybrid *Tara, Berberis thunbergii atropurpurea* 'Intermedia', and *Berberis thunbergii* 'Monlers' to the list of rust-resistant *Berberis* species. This change will allow for the movement of these newly developed varieties without unnecessary restrictions.

In addition, we are adding *Berberis thunbergii* 'Crimson Pygmy' to the list of rust-resistant *Berberis* species. After a review of the relevant literature, we have determined that *Berberis thunbergii* 'Crimson Pygmy' is a synonym for *Berberis thunbergii atropurpurea nana*, which is already included on the list of rust-resistant species. The addition of *Berberis thunbergii* 'Crimson Pygmy' to the list will allow that variety to be marketed under its preferred U.S. trade name.

EFFECTIVE DATE: November 17, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 645, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

Black stem rust is one of the most destructive plant diseases of small grains that is known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis*, *Mahoberberis*, and *Mahonia*. The fungus is spread from host to host by wind-borne spores.

The black stem rust quarantine and regulations in 7 CFR 301.38 *et seq.* (referred to below as "the regulations") quarantine the conterminous 48 States and the District of Columbia, and govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, also known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust; rust-susceptible plants do pose such a risk.

Section 301.38-2 of the regulations includes a listing of regulated articles, and indicates which species of the genera *Berberis*, *Mahoberberis*, and *Mahonia* are rust-resistant. Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate.

In a document published in the **Federal Register** on July 31, 1992 (57 FR 33905-33906, Docket No. 92-049-1), we proposed to add *Berberis gladwynensis* 'William Penn', *Berberis koreana* X *Berberis thunbergii* hybrid *Bailsel, Berberis koreana* X *Berberis thunbergii* hybrid *Tara, Berberis thunbergii atropurpurea* 'Intermedia', and *Berberis thunbergii* 'Monlers' to the list of rust-resistant *Berberis* species in § 301.38-2(b). The addition of these species was based on rust-resistance testing conducted by the U.S. Department of Agriculture (USDA). We also proposed to add *Berberis thunbergii* 'Crimson Pygmy' to the list of rust-resistant *Berberis* species, based on our determination that *Berberis thunbergii* 'Crimson Pygmy' is a synonym for *Berberis thunbergii atropurpurea nana*, which is already included on the list of rust-resistant *Berberis* species.

We solicited comments on the proposed rule for a 30-day period ending on August 31, 1992. We received one comment, from a State department of agriculture. That letter fully supported the proposed rule. Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposed rule as a final rule.

In this final rule, we are also making two nonsubstantive changes to the regulations that were not addressed in the proposed rule. The first concerns the manner in which cultivar names are set forth in the lists of rust-resistant *Berberis* and *Mahonia* species. In the current regulations, a cultivar name that follows a botanical name in the lists of rust-resistant *Berberis* and *Mahonia* species is enclosed in double quotation marks. Article 29 of the *International Code of Botanical Nomenclature* states that cultivar names that follow botanical or common names should be enclosed in single quotation marks. Therefore, we are changing the double quotation marks to single quotation marks as appropriate in § 301.38-2 of the regulations.

The second nonsubstantive change will correct a typographical error in the regulations. The cultivar name for *Berberis thunbergii atropurpurea* "Rosy Glow" on the list of rust-resistant *Berberis* species will be corrected to read 'Rose Glow'.

Effective Date

Mr. Robert Melland, the Administrator of the Animal and Plant Health Inspection Service, has determined that this rulemaking proceeding should be expedited by making this rule effective upon publication. This rule relieves restrictions on the interstate movement of six varieties of *Berberis thunbergii* into and through States or parts of States designated as protected areas. Relieving the restrictions will allow nurseries to propagate or sell these rust-resistant *Berberis* varieties in protected areas.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or

local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will allow the interstate movement of *Berberis gladwynensis* 'William Penn', *Berberis koreana* X *Berberis thunbergii* hybrid *Bailsel*, *Berberis koreana* X *Berberis thunbergii* hybrid *Tara*, *Berberis thunbergii atropurpurea* 'Intermedia', *Berberis thunbergii* 'Crimson Pygmy', and *Berberis thunbergii* 'Monlers' into and through States or parts of States designated as protected areas. Based on the information provided to us, we have determined that this rule will affect two commercial nurseries that might propagate the new species and numerous retail sales nurseries that might purchase and resell the varieties. This rule will enable those nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas. It is unlikely that the addition of these varieties to the list of rust-resistant *Berberis* species will have any effect on prices, investment, productivity, or our international competitive position. It is possible that this rule will positively affect innovation by allowing nurseries that develop new rust-resistant *Berberis* varieties the opportunity to market those varieties in protected areas. It is also possible that this rule will have some positive effect on nurseries that are small businesses by providing an opportunity for increased sales of rust-resistant *Berberis* species in protected areas. It is likely, however, that any economic effects will not be significant as a result of additional plant sales.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.38–2, paragraph (b) is amended by adding, in alphabetical order, the following rust-resistant *Berberis* species:

§ 301.38–2 Regulated articles.

* * * * *

(b) * * *

B. gladwynensis 'William Penn'

* * * * *

B. koreana X *B. thunbergii* hybrid *Bailsel*

B. koreana X *B. thunbergii* hybrid *Tara*

* * * * *

B. thunbergii atropurpurea 'Intermedia'

* * * * *

B. thunbergii 'Crimson Pygmy'

* * * * *

B. thunbergii 'Monlers'

* * * * *

3. In § 301.38–2, paragraph (b) is amended by removing the words "*B. thunbergii atropurpurea* "Rosy Glow" " and adding, in their place, the words "*B. thunbergii atropurpurea* 'Rosy Glow' "

4. In § 301.38–2, paragraph (b) is amended by removing all double quotation marks and adding, in their place, single quotation marks.

5. In § 301.38–2, paragraph (c)(2) is amended by removing all double quotation marks and adding, in their place, single quotation marks.

Done in Washington, DC, this 12th day of November 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–27829 Filed 11–16–92; 8:45 am]

BILLING CODE 3410–34–M

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7 CFR Part 301

[Docket No. 91–155–3]

Mediterranean Fruit Fly; Expansion of Quarantined Area in Los Angeles County

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by expanding the quarantined area in Los Angeles County, California. Immediate action is necessary to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: Interim rule effective November 12, 1992. Consideration will be given only to comments received on or before January 19, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–155–3. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratatis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of

this pest permits the rapid development of serious outbreaks.

The regulations in 7 CFR 301.78 (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Mediterranean fruit fly to noninfested areas of the United States. In a document effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573–57579, Docket No. 91–155), we quarantined the Hancock Park area of Los Angeles County. In an interim rule effective on September 10, 1992, and published in the **Federal Register** on September 15, 1992 (57 FR 42485–42486, Docket No. 91–155–2), we amended the regulations by adding a portion of Santa Clara County, California, to the list of quarantined areas.

Recent trapping surveys by State, county, and APHIS inspectors have revealed new Mediterranean fruit fly infestations in other portions of Los Angeles County, including Duarte, Griffith Park, Inglewood, and Pasadena.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Mediterranean fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Mediterranean fruit fly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Mediterranean fruit fly has been found.

In accordance with these criteria, we are amending § 301.78–3 by expanding the designated quarantined area in Los Angeles County, California, as follows:

Los Angeles County

That portion of the county in the Duarte, Griffith Park, Hancock Park, Inglewood, Jefferson Park, and Pasadena areas beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west on Brown Mountain Road to its intersection with El Prieto Road; then south and west on El Prieto Road to its intersection with the Pasadena city limits; then north and west along the Pasadena city limits line to its intersection with the La Canada Flintridge city limits; then west and south along the La Canada Flintridge city limits line to its intersection with Foothill Boulevard; then north and west on Foothill Boulevard to its intersection with La Crescenta Avenue; then south on La Crescenta Avenue to its intersection with Shirley Jean Street; then south and west along an imaginary line to the end of Allen Avenue; then south and west along Allen Avenue to its intersection with Mountain Street; then north and west on Mountain Street to its intersection with Sunset Canyon Drive; then north and west on Sunset Canyon Drive to its intersection with Olive Avenue; then south and west on Olive Avenue to its intersection with Barham Boulevard; then south on Barham Boulevard to its intersection with State Highway 101; then south and east on State Highway 101 to its intersection with Highland Avenue; then south on Highland Avenue to its intersection with Sunset Boulevard; then west on Sunset Boulevard to its intersection with La Cienega Boulevard; then south on La Cienega Boulevard to its intersection with Washington Boulevard; then south and west on Washington Boulevard to its intersection with Culver Boulevard; then south and west on Culver Boulevard to its intersection with Vista Del Mar; then south and east on Vista Del Mar to its intersection with Rosecrans Avenue; then east on Rosecrans Avenue to its intersection with Interstate Highway 110; then north on Interstate Highway 110 to its intersection with Century Boulevard; then east on Century Boulevard to its intersection with Central Avenue; then north on Central Avenue to its intersection with Adams Boulevard; then north and west along Adams Boulevard to its intersection with San Pedro Street; then north and east on San Pedro Street to its intersection with Washington Boulevard; then north and west on Washington Boulevard to its intersection with Broadway; then north and east on Broadway to its intersection with Olympic Boulevard; then north and west on Olympic Boulevard to its intersection with State Highway 110; then north and east on State Highway 110 to its intersection with Bishops Road; then south and east on Bishops Road to its intersection with North Broadway; then east to North Broadway to its intersection with Interstate Highway 5; then south on Interstate Highway 5 to its intersection with Interstate Highway 10 (San Bernardino Freeway); then east on Interstate Highway 10 to its intersection with Vincent Avenue; then north on Vincent Avenue to its intersection with Cypress Street; then east on Cypress Street to its intersection with Azusa Avenue; then north on Azusa Avenue to its intersection with San Gabriel Canyon Road; then due north along an imaginary line from this intersection to its intersection with the Angeles National Forest boundary; then west along the Angeles National Forest boundary to the point of the beginning.

Los Angeles International Airport is located in the quarantined area. Therefore, we are including special provisions for certain regulated articles that transit the airport either as air cargo or as meals intended for in-flight use. If these articles, moved into the quarantined area from outside the quarantined area, are enclosed or covered in accordance with § 301.78–4 of the regulations, they pose no significant risk of spreading the Mediterranean fruit fly interstate. They may therefore be moved interstate without a certificate or limited permit.

Other than the area in Los Angeles County specified above, there appears to be no reason to designate additional quarantined areas in California. The new quarantined area includes the previously quarantined Hancock Park area. Santa Clara County, California, which was designated earlier, remains quarantined.

The Administrator has determined that California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles under this subpart. The Administrator has also determined that the designation of less than the entire State of California as a quarantined area will prevent the interstate spread of the Mediterranean fruit fly.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mediterranean fruit fly from spreading to noninfested areas of the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This rule restricting the interstate movement of regulated articles from the Duarte, Griffith Park, Hancock Park, Inglewood, Jefferson Park, and Pasadena areas of Los Angeles County, California, will affect approximately 1979 small entities. They include 1219 fruit stands, 149 nurseries, 15 community gardens, 21 farmer's markets or swap meets, 544 vendors, 5 growers of citrus and avocados, 14 air cargo warehouses, and 12 food-catering companies. These small entities comprise less than 1 percent of the total of similar enterprises operating in the State of California. With the exception of the air cargo warehouses and food-catering companies (which are discussed below), most sell regulated articles primarily for local intrastate, not interstate, movement; they will be minimally affected by this rule. Its effect on the few small entities that do move regulated articles interstate from parts of the quarantined area outside Los Angeles International Airport will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost. Also, many of these entities sell other items in addition to the regulated articles. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

The effects on the air cargo companies and food-catering companies will be negligible because virtually all of their products intended for interstate movement from Los Angeles International Airport originate outside the quarantined area and, properly handled, will be permitted to be moved onto aircraft without a certificate or limited permit. We are not aware of other small entities that might be affected by the quarantining of Los Angeles International Airport.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This interim rule:

(1) Preempts all State and local laws and regulations that are inconsistent with this interim rule;

(2) Has no retroactive effect; and

(3) Does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–3, paragraph (c), the designation of the quarantined area is amended by revising the entry for Los Angeles County as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

Los Angeles County. That portion of the county in the Duarte, Griffith Park, Hancock Park, Inglewood, Jefferson Park, and Pasadena areas beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west on Brown Mountain Road to its intersection with El Prieto Road; then south and west on El Prieto Road to its intersection with the Pasadena city limits; then north and west along the Pasadena city limits line to its intersection with the La Canada Flintridge city limits; then west and south along the La Canada Flintridge city limits line to its intersection with Foothill Boulevard; then north and west on Foothill Boulevard to its intersection with La Crescenta Avenue; then south on La Crescenta Avenue to its intersection with Shirley Jean Street; then south and west along an imaginary line to the end of Allen Avenue; then south and west along Allen Avenue to its intersection with Mountain Street; then north and west on Mountain Street to its intersection with Sunset Canyon Drive; then north and west on Sunset Canyon Drive to its intersection with Olive Avenue; then south and west on Olive Avenue to its intersection with Barham Boulevard; then south on Barham Boulevard to its intersection with State Highway 101; then south and east on State Highway 101 to its intersection with Highland Avenue; then south on Highland Avenue to its intersection with Sunset Boulevard; then west on Sunset Boulevard to its intersection with La Cienega Boulevard; then south on La Cienega Boulevard to its intersection with Washington Boulevard; then south and west on Washington Boulevard to its intersection with Culver Boulevard; then south and west on Culver Boulevard to its intersection with Vista Del Mar; then south and east on Vista Del Mar to its intersection with Rosecrans Avenue; then east on Rosecrans Avenue to its intersection with Interstate Highway 110; then north on Interstate Highway 110 to its intersection with Century Boulevard; then east on Century Boulevard to its intersection with Central Avenue; then north on Central Avenue to its intersection with Adams Boulevard; then north and west along Adams Boulevard to its intersection with San Pedro Street; then north and east on San Pedro Street to its intersection with Washington Boulevard; then north and west on Washington Boulevard to its

intersection with Broadway; then north and east on Broadway to its intersection with Olympic Boulevard; then north and west on Olympic Boulevard to its intersection with State Highway 110; then north and east on State Highway 110 to its intersection with Bishops Road; then south and east on Bishops Road to its intersection with North Broadway; then east on North Broadway to its intersection with Interstate Highway 5; then south on Interstate Highway 5 to its intersection with Interstate Highway 10 (San Bernardino Freeway); then east on Interstate Highway 10 to its intersection with Vincent Avenue; then north on Vincent Avenue to its intersection with Cypress Street; then east on Cypress Street to its intersection with Azusa Avenue; then north on Azusa Avenue to its intersection with San Gabriel Canyon Road; then due north along an imaginary line from this intersection to its intersection with the Angeles National Forest boundary; then west along the Angeles National Forest boundary to the point of the beginning.

* * * * *

3. In § 301.78–4, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and new paragraph (b) is added to read as follows:

§ 301.78–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

* * * * *

(b) Without a certificate or limited permit, if:

(1) The regulated article is moving as air cargo or as a meal intended for in-flight consumption, and is transiting Los Angeles International Airport, California;

(2) The regulated article originated outside the quarantined area and is either moved in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Mediterranean fruit flies (such as canvas, plastic, or other closely woven cloth) while moving through the quarantined area; and

(3) The point of origin of the regulated article is indicated on the waybill.

* * * * *

Done in Washington, DC, this 12th day of November 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–27830 Filed 11–16–92; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 736]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 13 through November 19, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 736 (7 CFR part 907) is effective for the period from November 13 through November 19, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127; or Robert Curry, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into

four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 85 percent of the total production in 1991–92. District 2 is located in the southern coastal area of California and represented about 13 percent of 1991–92 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 2 percent; and District 4, which represented less than 1 percent, is northern California.

The Committee adopted its marketing policy for the 1992–93 season on July 28, 1992. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 22, 1992, in Visalia, California; and District 2 and 3 on September 29, 1992, in Ontario, California. The Committee revised its crop estimate, utilization, and shipping schedule at its September 22 meeting. The marketing policy discussed, among other things, the potential use of volume regulations for the ensuing season. This marketing policy is available from the Committee or Mr. Nissen.

The Committee's revised estimate of 1992–93 production is 77,900 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 72,644 cars during the 1991–92 season. The Committee has estimated that about 64 percent of the 1992–93 crop of 77,900 cars will be utilized in fresh domestic channels (50,000 cars), with the remainder being exported fresh (14 percent), processed (20 percent), or designated for other uses (2 percent). This compares with the 1991–92 total of 44,875 cars shipped to fresh domestic markets, about 62 percent of that year's crop.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing this regulation are expected to be more than offset by the potential benefits of regulation.

A proposed rule, based on the Committee's 1992–93 marketing policy, was published on October 23, 1992, in the **Federal Register** (57 FR 48340) inviting comments on the quantities of fresh California-Arizona navel oranges that may be shipped weekly to domestic markets for the 10-week period from the week ending November 5 through the week ending January 7, 1993. That rule provided interested persons the opportunity to comment on a proposed weekly volume regulation shipping level of 1,300,000 cartons for the week ending November 19. (Volume regulation was not implemented for the first two weeks in the rule.)

Two comments were received, one from Sequoia Orange Company, Inc. (Sequoia), and one from Foothill Farms. The comments addressed all ten weeks of the proposed rule. In its comment, Sequoia presented several arguments opposing the issuance of prorate during this period. In its first point, Sequoia questioned the status of the marketing order, contending that the August 21, 1992, decision by the U.S. Court of Appeals for the Ninth Circuit in San Francisco (Ninth Circuit) voided marketing order 907. It is the Department's position that the August 21 decision invalidated the 1985 amendments to the Valencia orange marketing order, and that the decision also affects the navel orange order since that order was amended concurrently in 1985. The marketing orders will continue in effect without the 1985 amendments.

Both commenters also alleged that the Department has insufficient support for the marketing order. Sequoia commented that the order does not have enough support for the Department to make a finding that the rules and regulations will tend to effectuate the purpose of the Act. The commenters cited the number of handlers who have filed motions in Federal court challenging the order to support this claim. While handlers may file a petition challenging provisions of an order, all marketing orders are initiated by growers and are for the benefit of growers and their level of continued support is determined through continuance referenda. A continuance referendum was held for the California-Arizona navel orange order in June 1991. The order was approved by 89 percent of the navel orange growers voting who accounted for 84 percent of the navel orange production represented in the referendum.

In its comment, Sequoia expressed concern regarding volume regulation and equity between Districts 1 and 2. In response to these concerns, § 907.51 of the order requires the Committee to provide equity of marketing opportunity in the regulated market to handlers in all districts. Section 907.110 provides that the Committee must establish an equity factor which is the same for all districts. The equity factor shall be stated as a percentage of the tree crop in each district and shall reflect a quantity of oranges (grown in each district) for which there will be equitable marketing opportunity under volume regulation during the ensuing season. In the development of its marketing policy, the Committee sets an equity factor which is used in the development of the weekly shipping schedules for all districts. While this schedule may change later in the season, i.e., when revised crop forecasts are available (the schedule has already been revised since the Committee's initial marketing policy meeting on July 28 because of changes in the crop forecast), the equity factor will always be applied equally to all districts. Thus, all districts, no matter how much they ship weekly to any market should eventually be provided the opportunity to ship, under regulation, the same proportionate amount to fresh domestic markets during the season. This is in accordance with the marketing order and the underlying statute, both of which have consistently been upheld after litigation in this regard.

Further, as Sequoia indicates in its comment, the marketing situations are different for District 1 compared to District 2, and these differences are taken into account when prorate is recommended by the Committee for each of the districts. For example, during the 1991–92 season, only five weeks were regulated in District 2 versus 12 regulated weeks in District 1. During the 1990–91 season, five weeks were regulated in District 1 versus no regulated weeks in District 2. During the 1989–90 season, 21 weeks were regulated in District 1 versus 12 regulated weeks for District 2. This flexibility is built into the order and is designed to provide equity while meeting marketing needs in the different districts. The fact that District 2 handlers export a larger percentage of their product than do District 1 handlers, as referenced by Sequoia, is not a consequence of the Federal marketing order. Exports are not regulated, and never have been. The marketing order does, however, provide for the distribution of unused prorate.

In its comment, Sequoia questioned the Committee's estimate in its marketing policy regarding a shipment level to maximize grower returns. Sequoia predicted that grower revenue would be maximized by total fresh shipments (domestic and export) in the range of 65,000–68,000 cars, or total fresh utilization of 84–87 percent of the estimated total tree crop. The commenter did not supply a copy of his analysis. However, the Department's review of the Committee's marketing policy indicates that projected shipments would be in the range of what could be expected to be most beneficial to growers.

Sequoia also commented that volume regulation restricts competitive activity. Prorate does not preclude competition

by handlers for market share. Prorate does not guarantee sales for a handler, but helps control the amount of fresh oranges that reaches the domestic market in a regulated week. Sales are still dependent on supply and demand on a weekly basis.

The commenter questioned the relationship between California-Arizona navel oranges and Florida and Texas navel oranges. Florida and Texas oranges are also regulated under marketing orders. However, these marketing orders do not contain provisions for volume regulation as does the California-Arizona navel orange marketing order. Producers in Florida and Texas approved marketing orders developed through a formal rulemaking process to fit their own unique fresh marketing conditions, as was done by California-Arizona navel orange producers.

Potential marketings of fresh California-Arizona navel oranges are much greater than those for fresh Florida oranges. Most Florida oranges go to processing, indicating that the fresh market for Florida fresh oranges is limited. The Committee does take into account shipments of Florida and Texas fresh oranges in recommending prorate.

Therefore, for the reasons stated, the above comments in opposition to the proposed rule, as well as the alternatives presented, are denied.

The Committee met publicly on November 10, 1992, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, with eight members voting in favor, two opposing, and one abstaining, that 1,500,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1992–93 marketing policy. The recommended amount of 1,500,000 cartons is 200,000 cartons above the amount of cartons specified in the proposed rule. Of the 1,500,000 cartons, 94.5 percent or 1,417,000 cartons are allotted for District 1, and 5.5 percent or 83,000 cartons are allotted for District 3.

During the week ending on November 5, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,150,000 cartons compared with 45,000 cartons shipped during the week ending on November 7, 1991. Export shipments totaled 27,000 cartons compared with 2,000 cartons shipped during the week ending on November 7, 1991. Processing and other uses accounted for 352,000 cartons compared with 7,000 cartons shipped during the week ending on November 7, 1991.

Fresh domestic shipments to date this season total 2,116,000 cartons compared with 48,000 cartons shipped by this time last season. Export shipments total 62,000 cartons compared with 2,000 cartons shipped by this time last season. Processing and other use shipments total 803,000 cartons compared with 7,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on November 5, 1992, was $8.74 per carton based on a reported sales volume of 698,000 cartons. The season average f.o.b. shipping point price to date is $9.08 per carton. The average f.o.b. shipping point price for the week ending on November 7, 1991, was $21.31 per carton; the season average f.o.b. shipping point price at this time last year was also $21.31.

The Department's Market News Service reported that, as of November 10, movement for California-Arizona navel oranges is expected to increase. Trading is active on the best fruit, with all others slow. It was also reported that quality is variable, but color is improving due to the cooler night temperatures.

At the meeting, Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. Most members in favor of regulation agreed that the quality, color, size, and taste of the fruit (indicated by a relatively high sugar to acid ratio) is generally very good, making this year's crop very marketable. It was reported that although demand at this time is good, the supply "pipeline" is expected to be full by the weekend. The majority of Committee members were concerned with the declining market and agreed that volume regulation was needed to ensure a stable Thanksgiving and Christmas market. Two Committee members favored open movement at this time while the majority of Committee members favored the issuance of general maturity allotment for Districts 1 and 3.

According to the National Agricultural Statistics Service, the 1991–92 season average fresh equivalent on-tree price for California-Arizona navel oranges was $5.29 per carton, 71 percent of the season average parity equivalent price of $7.43 per carton. Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1992–93 season average fresh on-tree price is estimated at $3.78 per carton, about 48 percent of the estimated fresh on-tree parity equivalent price of $7.83 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from November 13 through November 19, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication of the **Federal Register**. This is because there is insufficient time between the date of the final recommendation of the Committee based on the latest marketing information, and the effective date necessary to effectuate the declared policy of the Act.

This action needs to be effective for the regulatory week which begins on November 13, 1992. Interested persons were given the opportunity to comment on a proposed rule published on October 23, 1992, in the **Federal Register** [57 FR 48340]. Further, interested persons were given an opportunity to submit information and views on the regulation prior to and at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1036 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1036 Navel Orange regulation 736.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 13 through November 19, 1992, is established as follows:

	Cartons (in thousands)	Percent
District 1	1,417	94.5
District 2		
District 3	83	5.5
District 4		
Total	1,500	

Dated: November 12, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-27873 Filed 11-13-92; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1945

RIN 0575-AB38

Implementation of the Crop Insurance Waiver Provisions of the Supplemental Appropriations, Transfers, and Rescissions for the Fiscal Year Ending September 30, 1992, and for Other Purposes Act (Pub. L. 102-368) Signed September 23, 1992

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to implement the crop insurance waiver for annual crops planted for harvest in 1992 and 1993. This action is necessary to implement the provisions of the Supplemental Appropriations, Transfers and Rescissions for the Fiscal Year Ending September 30, 1992, and Other Purposes Act (Pub. L. 102-368) (1992 Supplemental Appropriations Act). The intended effect is to incorporate the law into existing FmHA regulations.

DATES: Interim rule effective November 17, 1992. Written comments must be submitted on or before December 17, 1992.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Ferguson, Loan Specialist, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 690-4018.

SUPPLEMENTARY INFORMATION:

Classification

This action was reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of $100 million or more. In Fiscal Year (FY) 1988, 554 Emergency (EM) loans were made, totaling approximately $30 million. However, as a prerequisite to obtaining a loan, applicants were required to show that the damaged 1987 crop was insured, or was not eligible for crop insurance at the beginning of the 1988 crop year. The crop insurance requirement was waived for losses to the 1988 and 1989 crops by the Disaster Assistance Acts of 1988 (Pub. L. 100-387) and 1989 (Pub. L. 101-82). The Food, Agriculture, Conservation and Trade Act of 1990 (FACT Act) (Pub. L. 101-624), as amended, waived the requirement for losses to the 1990 crop, and the Dire Supplemental Appropriations Act waived it again for 1991 crop losses. Consequently, in FY 1989, 2,806 EM loans were made for a total of approximately $73 million. In FY 1990, 2,609 EM loans were made for a total of approximately $82 million, and in FY 1992 (as of September 22, 1992) 1,162 loans were made for approximately $80 million. The 1992 Supplemental Act waived the crop insurance requirement again for annual crops planted for harvest in 1992 and 1993. As evidenced by the volume of loans made in 1988, the Agency would expect some EM loans in 1992 and 1993 even without the waiver. Based on the increase in the loan volume during FY 1989 through FY 1992 when crop waivers were in effect, the Agency does not anticipate the waiver for 1992 and 1993 crop losses to result in an annual effect on the economy of $100 million or more.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Discussion of Interim Rule

FmHA is implementing this interim rule immediately with a 30-day comment period. The 1992 Supplemental Appropriations Act dated September 23, 1992, amended FmHA's statutory loan making authorities. It is necessary to implement these authorities upon publication to provide immediate assistance to farmers and ranchers who have suffered major production and/or physical losses as a result of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar.

Farmers who have suffered severe production losses are in dire need of disaster program assistance to purchase livestock feed for replacement of feed crops lost as a result of the disaster(s), to repay creditors and supplier's annual production loans, and open supplier accounts.

The Act mandates changes in the EM loan regulations. These changes ease the requirements for obtaining assistance under this program, as did previous changes made as a result of the Disaster Assistance Acts of 1988 and 1989, the FACT Act of 1990, and the Dire Supplemental Appropriations Act of

1991. By implementing these regulations immediately, assistance can be provided to many needy farmers and ranchers who, without this assistance, would be in danger of losing their operations.

Background

The loan making, supervision and servicing of FmHA borrowers is governed primarily by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 et seq.). Specifically, 7 U.S.C. 1961(b) makes applicants for EM loans ineligible if crop insurance was available, but not obtained, for crops lost in the disaster. The purpose for revising the FmHA regulations at this time is to implement various provisions of the 1992 Supplemental Appropriations Act as it applies to EM loans. In particular, title XI, chapter I of the Act states, in part, that EM loans "made with respect to damage to an annual crop planted for harvest in 1992 and 1993 under Subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance * * *."

Due to the urgent need of financial assistance for many farmers and ranchers, FmHA has expedited the implementation of these changes.

Changes

The existing EM loan regulations state that applicants will not be eligible for EM loans to cover damages and losses to any crop(s) harvested after December 31, 1986, which was not insured, but could have been insured with Federal Crop Insurance Corporation (FCIC) crop insurance or multi-peril crop insurance, unless the crop(s) could not be planted due to the declared/designated/authorized disaster(s). The FACT Act of 1990 suspended this requirement for farmers and ranchers who suffered severe crop production losses due to drought and other natural disasters in 1990 and who otherwise qualified for EM loan assistance due to crop production losses in 1990. The 1992 Supplemental Appropriations Act suspended this requirement for crop production losses in 1991. These exceptions are incorporated into existing EM loan regulations. The exceptions for crops planted for harvest in 1990 or 1991, however, are being deleted since any EM loan applications concerning these crops have already been processed. The 1992 Supplemental Act again suspended the crop insurance requirement for crops planted for harvest in 1992 and 1993. The EM loan regulations, therefore, are being revised accordingly.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1945—EMERGENCY

1. The authority citation for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loan Policies, Procedures and Authorizations

2. Section 1945.167 is amended by revising paragraph (a) to read as follows:

§ 1945.167 Loan limitations and special provisions.

(a) *EM loans are not authorized for losses to crops grown in areas where FCIC crop insurance or multi-peril crop insurance is available.* Applicants will not be eligible for EM loans to cover damages and losses to any crop(s) harvested after December 31, 1986, which was not insured, but could have been insured with FCIC crop insurance or multi-peril crop insurance. In such instances, applicants will not qualify for EM loans based on losses to those crops which could have been insured against the losses, unless the crop(s) could not be planted due to the declared/designated/authorized disaster(s). However, as a result of 1992 natural disasters, the Supplemental Appropriations, Transfers, and Rescissions Act provides for the waiver of this mandatory crop insurance requirement for crops planted for harvest in 1992 and 1993. Under these waiver provisions, disaster-related production losses sustained to crops planted for harvest in 1992 and 1993 will be counted in the eligibility calculation and the maximum EM loan entitlement determination, regardless of whether or not crop insurance was available to the applicant, or whether or not such insurance was purchased by the applicant. Planted for harvest in 1992 and 1993 means:

(1) For annual crops, planted for harvest in 1992 and 1993; and

(2) For perennial crops, planted in 1992 or earlier and producing an annual crop for harvest in 1992 and 1993.

* * * * *

Dated: October 6, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-27828 Filed 11-16-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 564

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 722

Real Estate Appraisal Exceptions in Major Disaster Areas

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Office of Thrift Supervision, Treasury; and National Credit Union Administration.

ACTION: Statement and Order; Temporary exceptions.

SUMMARY: Section 2 of the Depository Institutions Disaster Relief Act of 1992 (DIDRA), signed by the President on October 23, 1992, authorizes the agencies to make exceptions to statutory and regulatory requirements relating to appraisals for certain transactions. The exceptions are available for transactions that involve real property in major disaster areas when the exceptions would facilitate recovery from the disaster and would not be inconsistent with safety and soundness. Any such exceptions would expire no later than three years after the disaster is declared by the President. The specific expiration dates are set out in **SUPPLEMENTARY INFORMATION.**

DATES: This order is effective on November 17, 1992, and expires for specific areas on the dates listed in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

Office of the Comptroller of the Currency (OCC)

Thomas E. Watson, National Bank Examiner, (202) 874-5350, or William C.

Kerr, National Bank Examiner, (202) 874–5170, Office of the Chief National Bank Examiner; or Horace G. Sneed, Senior Attorney (202) 874–5310, Bank Operations and Assets Division, 250 E Street, SW., Washington, DC 20219.

Office of Thrift Supervision (OTS)

Robert Fishman, Program Manager, Credit Risk, (202) 906–5672; Deirdre Kvartunas, Program Analyst, (202) 906–7933; Diana Garmus, Deputy Assistant Director, Corporate Activities, (202) 906–5683; Ellen J. Sazzman, Attorney, Regulations and Legislation Division, Chief Counsel's Office, (202) 907–7133; 1700 G Street, NW., Washington, DC 20552.

Board of Governors of the Federal Reserve System (Board)

Rhoger H Pugh, Assistant Director, (202) 728–5883, Stanley B. Rediger, Supervisory Financial Analyst, (202) 452–2629, or Virginia M. Gibbs, Senior Financial Analyst, (202) 452–2521, Division of Banking Supervision and Regulation; or Christopher Bellini, Attorney, (202) 452–3269, Legal Division; 20th and Constitution Avenue, NW., Washington, DC 20551.

Federal Deposit Insurance Corporation (FDIC)

Robert F. Miailovich, Associate Director, (202) 898–6918, James D. Leitner, Examination Specialist, (202) 898–6790, Division of Supervision; or Walter P. Doyle, Counsel, (202) 898–3682, Legal Division, 550 17th Street, NW., Washington, DC 20429.

National Credit Union Administration (NCUA)

Michael J. McKenna, Office of General Counsel, (202) 682–9630, or Alonzo Swann, Office of Examination and Insurance, (202) 682–9640; 1776 G Street NW., Washington, DC 20456.

SUPPLEMENTARY INFORMATION:

Statement

Section 2 of DIDRA authorizes the agencies to make exceptions to existing appraisal requirements to facilitate recovery in designated major disaster areas, so long as safety and soundness are not compromised. This has the effect of excluding transactions to which the exceptions apply from the definition of "federally related transaction." Such exceptions expire not later than three years after the disaster is declared by the President.

The agencies have determined that recovery from Hurricanes Andrew and Iniki and from the Los Angeles civil unrest in May 1992 would be facilitated by excepting transactions involving real estate located in the areas directly affected by those disasters from the real estate appraisal requirements of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and the regulations promulgated pursuant to title XI of FIRREA. Disruption of real estate markets in the affected areas interferes with the ability of regulated institutions to obtain appraisals that comply with statutory and regulatory requirements. The order issued with this statement removes that impediment to depository institutions making loans and engaging in other transactions that would help to finance reconstruction and rehabilitation of such areas.

The agencies also have determined that safety and soundness would not be adversely affected by such exceptions so long as the institution's records relating to any such excepted transaction clearly indicate either that the property involved was directly affected by the disaster or that the transaction would facilitate recovery from the disaster. In addition, the transaction must continue to be subject to review by management and by the agencies in the course of examination of the institution under normal supervisory standards relating to safety and soundness, though the transactions need not comply with the specific requirements of title XI of FIRREA and the agencies' existing appraisal regulations.

Expiration Dates

Exceptions for Florida and Louisiana counties affected by Hurricane Andrew expire August 23, 1995, and August 25, 1995, respectively. Exceptions for Hawaii counties affected by Hurricane Iniki expire September 11, 1995. Exceptions for Los Angeles County expire May 1, 1995.

Order

In accordance with section 2 of DIDRA, relief is hereby granted from the provisions of title XI of FIRREA and the agencies' appraisal regulations promulgated thereunder [1] for any real estate-related financial transaction that requires an appraisal under those provisions; provided that the transaction involves real property located in an area designated eligible for Federal assistance by the Federal Emergency Management Agency as a result of Hurricanes Andrew [2] or Iniki [3] or of the Los Angeles civil unrest in May 1992; [4]

Provided

The real property involved was directly affected by the major disaster; or

The real property involved was not directly affected by the major disaster but the institution's records explain how the transaction would facilitate recovery from the disaster;

And further provided

There is a binding commitment to fund a transaction that is made within three years after the date the major disaster was declared by the President; and

The regulated institution retains in its files, for examiner review, appropriate documentation supporting the property's valuation.

Dated: November 2, 1992.

Department of the Treasury, Office of the Comptroller of the Currency.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

Dated: November 5, 1992.

Board of Governors of the Federal Reserve System.

William W. Wiles,

Secretary of the Board.

Dated: November 4, 1992

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

Dated: November 6, 1992.

Department of the Treasury, Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

Dated: November 2, 1992.

National Credit Union Administration.

Becky Baker,

Secretary of the Board.

[FR Doc. 92–27756 Filed 11–16–92; 8:45 am]

BILLING CODES 4810–33–M; 6210–01–M; 6714–01–M; 6720–01–M; and 7535–01–M

[1] 12 CFR part 34, subpart C (OCC); 12 CFR parts 208 and 225, subpart G (Board); 12 CFR part 323 (FDIC); 12 CFR part 564 (OTS); 12 CFR part 722 (NCUA).

[2] Florida counties: Broward, Collier, Dade, Monroe.

Louisiana parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, West Feliciana.

[3] Hawaiian counties: Hawaii, Kahoolawe, Kauai, Lanai, Maui, Molokai, Niihau, Oahu.

[4] Los Angeles County.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-269-AD; Amendment 39-8420; AD 92-25-05]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model ATP series airplanes, that requires placing a life limit on certain brake torque plates. This amendment is prompted by reports of fatigue cracks developing in brake unit torque plates. The actions specified by this AD are intended to prevent structural failure of the brake torque plates.

EFFECTIVE DATE: December 22, 1992.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all British Aerospace Model ATP series airplanes was published in the **Federal Register** on August 26, 1992 (57 FR 38623). That action proposed to require placing a life limit on certain brake torque plates.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour per airplane to add the brake torque plate life limitations to the Maintenance Manual, and approximately 20 work hours per airplane to accomplish the initial parts change. The average labor rate is $55 per work hour. (If the required actions are implemented during normal maintenance, no additional work hours will be necessary.) Dunlop will provide new torque plates at normal brake overhaul at no cost to the airplane operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $275 (for the Maintenance Manual addition) and $11,000 (for the initial parts change). This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-25-05. British Aerospace: Amendment 39-8420. Docket 91-NM-269-AD.

Applicability: All Model ATP series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of certain brake torque plates and accompanying brake failure, accomplish the following:

(a) Within 400 landings after the effective date of this AD, revise the FAA-approved Mandatory Life Limitations (Airframe) Section, Chapter 5, Section 05-10-11, Table 1, page 4, of the British Aerospace ATP Aircraft Maintenance Manual, by deleting the existing life limitations for brake torque plates, part numbers AHA 1777 and AHA 1650, and adding the component life limitations listed in Table 1 below. The Maintenance Manual revision may be accomplished by inserting a copy of this AD into the Mandatory Life Limitations (Airframe) Section of the ATP Aircraft Maintenance Manual. Once this revised page of the Maintenance Manual is available from British Aerospace and is inserted into the Maintenance Manual, the copy of this AD may be removed.

TABLE 1—CONTINUED

MSI/ SSI item	Description	Part No.	Life limitation
32-42-00-022.	Brake torque plate (Post Dunlop Mod 2541).	AHM8857 Assembly AHA 1777.	14,500 landings
32-42-00-022.	Brake torque plate (Pre Dunlop Mod 2541).	AHM8858 Assembly AHA 1650.	10,000 landings

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 22, 1992.

Issued in Renton, Washington, on November 10, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27816 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove that portion of the regulations reflecting approval of a new animal drug application (NADA) held by Cargill, Inc., Nutrena Feed Division, for use of a tylosin Type A medicated article for making a tylosin Type C feed. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: November 27, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8749.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 98-595 held by Cargill, Inc., Nutrena Feed Division, Box 5614, Minneapolis, MN 55440, for using tylosin Type A medicated articles for making tylosin Type C cattle, chicken, and swine feeds. This document removes the entry in 21 CFR 558.625(b)(28) which reflects the approval.

This NADA was originally held by Walnut Grove Products, W. R. Grace & Co. Nutrena and Walnut Grove advised FDA that, effective September 13, 1991, this NADA was transferred to Nutrena. As of this sponsor change, Walnut Grove is no longer the sponsor of any approved NADA's. Therefore, 21 CFR 510.600(c)(1) and c)(2) are amended to remove Walnut Grove and its drug labeler code from the list of sponsors of approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Walnut Grove Products, Division of W. R. Grace & Co.," and in the table in paragraph (c)(2) by removing the entry for "034139".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(28).

Dated: November 6, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-27766 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 550

Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Libyan Sanctions Regulations are being amended to add the names of six companies and banks to Appendix A and to revise the information for one company previously listed at Appendix A, and to add the names of five individuals to Appendix B. Appendix A contains the names of companies, banks, and other entities, whether located outside or inside of Libya, which the Director of the Office of Foreign Assets Control ("FAC") has determined to be owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. Appendix B contains the list of individuals whom the Director of FAC has determined to be acting or purporting to act directly or indirectly on behalf of the Government of Libya.

EFFECTIVE DATE: November 16, 1992.

ADDRESSES: Copies of this list are available upon request at the following location: Office of Foreign Assets Control, U.S. Department of the Treasury, Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs Division, Office of Foreign Assets Control, tel.: 202/622-2420.

SUPPLEMENTARY INFORMATION: The Libyan Sanctions Regulations, 31 CFR part 550 (the "Regulations"), were issued by the Treasury Department to implement Executive Orders No. 12543 (51 FR 875, Jan. 9, 1986) and 12544 (51 FR 1235, Jan. 10, 1986), in which the President declared a national emergency with respect to Libya, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), and ordering specific measures against the Government of Libya. The Regulations were amended by a final rule published in the **Federal Register** (56 FR 20540, May 6, 1991) which added appendix A, a list of organizations determined to be within the term "Government of Libya." The Regulations were amended further by a final rule (56 FR 37156, Aug. 5, 1991) which, among other changes, added a new appendix B, "Individuals Determined To Be Specially Designated Nationals of the Government of Libya," to the end thereof. The appendices have been amended at 56 FR 65993 (Dec. 20, 1991); 57 FR 10798 (Mar. 30, 1992); and 57 FR 29424 (July 1, 1992).

Section 550.304 of the Regulations defines the term "Government of Libya" as follows:

(a) The "Government of Libya" includes:

(1) The State and the Government of Libya, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Libya;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing;

(4) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) of this section.

(b) A person specified in paragraph (a)(2) of this section shall not be deemed to fall within the definition of Government of Libya solely by reason of being located in, organized under the laws of, or having its principal place of business in, Libya.

Determinations that persons fall within the definition of the "Government of Libya" are effective upon the date of determination by the Director of FAC, acting under authority delegated by the Secretary of the Treasury. Public notice is effective upon the date of publication or upon actual notice, whichever is sooner.

This rule amends Appendix A to part 550 to provide public notice of six additional companies and banks determined to be "specially designated nationals" of the Government of Libya. This rule also amends Appendix A to part 550 to provide public notice of additional address information and a further name clarification to the previous listing of one company determined to be a "specially designated national" of the Government of Libya. Appendix A consists of organizations determined by the Director of FAC to be owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. The persons listed in appendix A thus fall within the definition of the "Government of Libya" contained in § 550.304(a) of the Regulations, and are subject to all prohibitions applicable to other components of the Government of Libya. All unlicensed transactions with such persons, or in property in which they have an interest, are prohibited.

This rule also amends appendix B to part 550 to provide public notice of five additional individuals determined to be "specially designated nationals" of the Government of Libya. Appendix B consists of individuals determined by the Director of FAC to be acting or purporting to act directly or indirectly on behalf of the Government of Libya. The individuals listed in appendix B thus fall within the definition of the "Government of Libya" contained in § 550.304(a) of the Regulations, and are subject to all prohibitions applicable to other components of the Government of Libya. All unlicensed transactions with such persons, or in property in which they have an interest, are prohibited.

The list of specially designated nationals is a partial one, since FAC may not be aware of all the agencies and officers of the Government of Libya or of all the persons that might be owned or controlled by the Government of Libya or acting as agents or front organizations for Libya, and which thus qualify as specially designated nationals of the Government of Libya. Therefore, persons engaging in transactions may not rely on the fact that any particular person is not on the specially designated nationals list as evidence that it is not owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya. The Treasury Department regards it as incumbent upon all U.S. persons to take reasonable steps to ascertain for themselves whether persons they enter into transactions with are owned or controlled by the Government of Libya or are acting or purporting to act on its behalf, or on behalf of other countries subject to blocking or transactional restrictions (at present, Cuba, Haiti, Iraq, North Korea, Vietnam, and the Federal Republic of Yugoslavia (Serbia and Montenegro)).

Section 206 of the International Emergency Economic Powers Act, 50 U.S.C. 1705, provides for civil penalties not to exceed $10,000 per count for violations of the Regulations, fines of up to $250,000 and imprisonment for up to 10 years per count for willful violations of the Regulations by individuals, and fines of up to $500,000 for organizations.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 550

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign trade, Libya, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR Part 550 is amended as set forth below:

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 is revised to read as follows:

Authority: 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa–8, 2349aa–9; E.O. 12543, 51 FR 875, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 51 FR 1235, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319.

2. Appendix A to Part 550 is amended by adding the following six names in alphabetical order to read as follows:

Appendix A to Part 550—Organizations Determined To Be Within The Term "Government of Libya" (Specially Designated Nationals of Libya)

* * * * * *

Alubaf Arab International Bank E.C., (a.k.a. Alubaf), UGB Tower, Diplomatic Area, P.O. Box 12529, Manama, Bahrain

Alubaf International Bank—Tunis, (a.k.a. Alubaf—Tunis), 90–92 Avenue Hedi Chaker, P.O. Box 51, 1002 Tunis Belvedere, Tunisia

* * * * * *

Arab Bank for Investment and Foreign Trade, (a.k.a. Arbift),
Head Office, Arbift Building, Sheikh Hamdan Street, P.O. Box 2484, Abu Dhabi, U.A.E.,
Al Masood Building, Khalifa Street, P.O. Box 7588, Abu Dhabi, U.A.E.,
Khalfan Bin Rakan Building, Khalifa Street, P.O. Box 16003, Al Ain, U.A.E.,
Arbift Tower, Baniyas Street, P.O. Box 5549, Deira, Dubai, U.A.E.

Arab Commercial Insurance Company, Channel Islands.

* * * * *

Brega International Marketing Company, Al Nassar Street, P.O. Box 4768, Tripoli, Libya

Brega Petroleum Marketing Company, Alnaser Street, P.O. Box 402, Tripoli, Libya,
Azzawiya Km. 50, P.O. Box 402, Tripoli, Libya,
Sayedi Street P.O. Box 402, Tripoli, Libya,
P.O. Box 1278, Benghazi, Libya

* * * * *

3. Appendix A to part 550 is further amended by revising entry for "Tamoil Trading Ltd." to read as follows:

Tamoil Trading Ltd., (f.k.a. Tamoil (UK) Ltd.),
24 Boulevard Princess Charlotte, Monte Carlo, Monaco,
25 Schutzengasse CH 8001, Zurich, Switzerland,
1 St. Paul's Churchyard, London EC4M 8SH, United Kingdom

4. Appendix B to part 550 is amended by adding the following five names in alphabetical order to read as follows:

Appendix B to Part 550—Individuals Determined To Be Specially Designated Nationals of the Government of Libya

* * * * *

Coobar, Hadi N.,
Manama, Bahrain,
Tripoli, Libya.

* * * * *

El-Kib, Abdullatif,
Manama, Bahrain,
Tripoli, Libya,

* * * * *

Najah, Tahor,
Manama, Bahrain,
Tripoli, Libya.

* * * * *

Omeish, Ramadan M.,
Tripoli, Libya,
Abu Dhabi, U.A.E.

* * * * *

Zlitni, Dr. Abdul Hafid Mahmoud,
Tripoli, Libya,
Abu Dhabi, U.A.E.

Dated: October 27, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 30, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92-27770 Filed 11-16-92; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 90-064]

RIN 2115-AD71

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: As a result of a legislatively imposed operating schedule, the Coast Guard is permanently changing the regulations governing operation of the Woodrow Wilson Memorial Bridge across the Potomac River, mile 103.8, at Alexandria, Virginia. The changes further restrict openings of the drawbridge for vessel traffic and include no provision for daylight opening opportunities for recreational vessels The Coast Guard is revising the interim final rule now in effect to conform to the schedule contained in the law.

EFFECTIVE DATE: This rule is effective on November 17, 1992.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory Background

The Woodrow Wilson Bridge has operated under several temporary deviations from the existing permanent regulations from August of 1990 until May 27, 1992. In May 1992 an interim final rule was published in the **Federal Register** (57 FR 22171) which is still in effect but would have expired on December 31, 1992.

The Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on December 20, 1991 (56 FR 66326) has been overtaken by events. An act of Congress has removed the need to complete the notice and comment rulemaking and it has been withdrawn by a notice published elsewhere in this issue of the **Federal Register.** Furthermore, the need for continuing the interim final rule in effect is also gone. The amendment of § 117.255 will completely replace it.

Pursuant to the same act, the Coast Guard is drafting an Advance NPRM to be published in the Federal Register within 180 days of enactment which will solicit public comment "on whether there are practical ways to encourage owners and operators of commercial vessels to make every reasonable effort to notify the bridge tender of the time a vessel will pass the Woodrow Wilson Memorial Bridge by not later than 24 hours before that passage."

It is necessary to provide adequate notice to mariners and the public as soon as possible that the operating schedule in this final rule is required by Public Law 102-587, title 5 of the Coast Guard Authorization Act of 1992, signed by the President on November 5, 1992, and is effective upon signing. Therefore, the Coast Guard finds, pursuant to 5 U.S.C. 553(b), that good cause exists for making this rule effective in less than 30 days after the date of publication in the **Federal Register.**

Drafting Information

The drafters of this notice are Ann B. Deaton, Project Officer, and CAPT M. K. Cain, Project Attorney.

Regulatory Evaluation

This final rule is considered to be not major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979).

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not raise sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) (promulgation of drawbridge operating procedures) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 is revised to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Section 117.255 is revised to read as follows:

§ 117.255 Potomac River.

(a) The draw of the Woodrow Wilson Memorial (I-95) bridge, mile 103.8, between Alexandria, Virginia, and Oxon Hill, Maryland—

(1) Shall open on signal at any time only for a vessel in distress, notwithstanding the provisions of § 117.31.

2. Shall open for the passage of a commercial vessel at any time except:

(i) Monday through Friday (except Federal holidays), 5 a.m. to 10 a.m. and 2 p.m. to 8 p.m.

(ii) Saturday, Sunday, and Federal holidays, 2 p.m. to 7 p.m.

(3) Need not open for the passage of a commercial vessel under paragraph (a)(2) of this section unless—

(i) The owner or operator of the vessel provides the bridge tender with an estimate of the approximate time of that passage at least 12 hours in advance at (202) 727-5522; and

(ii) the owner or operator of the vessel notifies the bridge tender at least 4

hours in advance of the requested time for that passage.

(4) Shall open for the passage of a recreational vessel at any time except:

(i) Monday through Friday (except Federal holidays), 5 a.m. to 12 midnight;

(ii) Saturday, Sunday, and Federal holidays, 7 a.m. to 12 midnight, except as provided in paragraph (a)(4)(iii) of this section;

(iii) Notwithstanding paragraph (a)(4)(ii) of this section, the bridge may open beginning at 10 p.m. on Saturday, Sunday, or a Federal holiday for the passage of a recreational vessel if the owner or operator of the vessel notifies the Bridge Tender of the time of that passage by not later than 12 hours before that time.

(5) Need not open for the passage of a recreational vessel under paragraph (a)(4) of this section unless—

(i) The owner or operator of the vessel provides the bridge tender with an estimate of the approximate time of that passage at least 12 hours in advance at (202) 727–5522; and

(ii) the owner or operator of the vessel notifies the bridge tender at least 4 hours in advance of the requested time for that passage.

(6) A recreational vessel may pass through the drawspan at any time it is open for the passage of a commercial vessel.

(b) The draws of all other bridges need not be opened for the passage of vessels.

W. T. Leland,

Rear Admiral, U.S. Coast Guard, District Commander, Fifth Coast Guard District.

[FR Doc. 92–27837 Filed 11–16–92; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 414

[BPD–690–F]

RIN 0938–AE81

Medicare Program; Payment Change for Home Dialysis

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 6203(b) of the Omnibus Budget Reconciliation Act of 1989, which limits Medicare payment for home dialysis equipment, supplies, and support services. Also, in accordance with section 6203(b), we are requiring that, for Medicare payments to be made to a supplier of home dialysis supplies and equipment when the patient's self-care home dialysis is not under the direct supervision of a Medicare approved renal dialysis facility, the patient must certify that the supplier is the sole supplier of his or her dialysis supplies and equipment. In addition, the supplier must agree to receive payment on an assignment basis only and must certify that it has entered into a written agreement with an approved dialysis facility, under which the facility agrees to furnish the patient with all home dialysis services. We are also providing a one-time-only opportunity for certain home dialysis patients to immediately change their current method of payment.

DATES: These regulations are effective December 17, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Niemann, (410) 966–4569.

SUPPLEMENTARY INFORMATION:

I. Background

A. Legislative Summary

Medicare pays for home dialysis furnished beneficiaries with end stage renal disease (ESRD) under either of two methods. Under Method I (also called the composite rate), the same rate is paid to a Medicare approved dialysis facility regardless of where the dialysis is performed (that is, whether at the beneficiary's home or at the facility). If dialysis is performed at the beneficiary's home, the facility is responsible for furnishing (directly or indirectly) necessary items and support services. Examples of home dialysis support services include, but are not limited to, periodic monitoring of the patient's home adaption, consultation for the patient with a qualified social worker and a qualified dietician, emergency visits by qualified facility personnel, maintaining records to assume continuity of care, and certain dialysis-related laboratory tests. Program payment for all these items and services is at a prospectively determined rate. The composite rate is subject to the usual Medicare Part B deductible and coinsurance requirements, and the determination of the amount is described in section 1881(b)(7) of the Social Security Act (the Act). The amount is set by the Secretary and based on a blend of the costs entailed in furnishing dialysis services in the facility and the costs of furnishing them in the beneficiary's home. It does not include an allowance for paid home dialysis assistants.

Under Method II (also called direct dealing), payment to suppliers for home dialysis supplies and equipment is made by the Medicare carrier on a fee-for-service basis, which is the reasonable charge method used for Part B services. Support services furnished by a dialysis facility are paid by the Medicare intermediary. (For hospital-based facilities, these services are paid on the basis of cost; for independent facilities on the basis of charges related to costs.)

Method II is an alternative to Method I which allows the beneficiary to make his or her own arrangements for supplies and equipment. We believe that Congress' intent in establishing Method II was in part to save the beneficiary money on coinsurance expenses. This is supported by a congressional document which states that by making "his or her own arrangements for supplies and equipment * * * the patient is often able to save on coinsurance expenses" (Subcommittee on Health and the Environment of the House Committee on Energy and Commerce, 101st Cong., 1st Sess., "Medicare and Medicaid Health Budget Reconciliation Amendments of 1989" 40 (Comm. Print 101–M)).

The beneficiary may choose either to deal with a facility, which is paid under Method I, or to deal directly with a supplier, which is paid under Method II. If he or she elects to change the method of payment for home dialysis, the change is usually effective January 1 of the year after the calendar year in which the change was elected.

Section 6203(b) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), which became law on December 19, 1989, amended section 1881(b)(7) of the Act to provide that any Medicare payment for dialysis made under any payment method other than Method I may not exceed the amount (or, in the case of continuous cycling peritoneal dialysis (CCPD), 130 percent of the amount) of the median payment that would have been made under the Method I (or composite) rate for hospital-based dialysis facilities. (Currently, the median composite rate for hospital-based dialysis facilities is about $130 per treatment, which is approximately $4 per treatment greater than the median composite rate for independent dialysis facilities.)

Section 6203(b) of Pub. L. 101–239 also amended section 1881(b)(4) of the Act to add the provision that, for Medicare payments to be made to a supplier of home dialysis supplies and equipment under Method II, the beneficiary must certify that the supplier is the sole supplier of his or her dialysis supplies and equipment. (A dialysis facility may not be paid under Method II for furnishing home dialysis equipment or supplies. Dialysis facilities furnishing

home dialysis supplies and equipment are paid only under Method I.) In addition, the supplier must agree to receive payment on an assignment basis only. The supplier must certify that is has entered into a written agreement with a Medicare approved dialysis facility, under which the facility agrees to furnish the patient with all home dialysis services and all other necessary dialysis services and supplies (that is, those which are not home dialysis equipment and supplies), including institutional dialysis services and supplies and emergency services.

Section 6203(b) of Public Law 101-239 further states that these changes will be effective for dialysis services, supplies, and equipment furnished on or after February 1, 1990.

B. Provisions of the Proposed Rule

We published a proposed rule in the **Federal Register** on December 26, 1990 (55 FR 53007) to implement section 6203(b) of Pub. L. 101-239.

In the proposed rule, we proposed to delete all of the current text of § 405.544 ("Payment for home dialysis equipment, supplies, and support services") except the title, and replace it with new text. We proposed also to redesignate § 405.544 as § 414.330, in order to move it to subpart E ("Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians") of part 414 ("Payment on a Reasonable Charge Basis"), which was recently established (55 FR 23435). However, in accordance with the provisions that were published in the **Federal Register** on June 8, 1990 (55 FR 23440), § 405.544 was removed. Although § 405.544 was removed, we are finalizing the changes that we proposed to be established at § 414.330.

In a new § 414.330(a), we proposed to explain payment for home dialysis equipment and supplies. We proposed in paragraph (a)(1) that, except as provided in § 414.330(a)(2), Medicare pays for home dialysis equipment and supplies only under the prospective payment rates established at 42 CFR 413.170 (that is, under Method I or the composite rate).

In § 414.330(a)(2), we proposed that if the conditions set forth in § 414.330 (a)(2)(i) through (a)(2)(iv) were met, Medicare would pay for home dialysis equipment and supplies on a reasonable charge basis in accordance with subpart E (Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians) of part 405, but that the amount of payment could not exceed the limit we would establish for equipment and supplies in paragraph (c)(2) of § 414.330, which is described below.

The conditions that must be met in order for Medicare payment to be made for home dialysis supplies and equipment under Method II were set forth in the proposed § 414.330 (a)(2)(i) through (a)(2)(iv). They are:

- The patient elects to obtain home dialysis equipment and supplies from a supplier that is not a Medicare approved dialysis facility.
- The patient certifies to HCFA that he or she has only one supplier for all home dialysis equipment and supplies. We stated that this certification must be made on HCFA form 382 (the "ESRD Beneficiary Selection" form).
- In writing, the supplier—

—Agrees to receive Medicare payment for home dialysis supplies and equipment only on an assignment-related basis; and

—Certifies to HCFA that it has a written agreement with one Medicare approved dialysis facility for each patient. In the agreement, the facility must agree to furnish the following items:

+ All home dialysis support services for each patient in accordance with Subpart U (Conditions for Coverage of Suppliers of ESRD Services) of this chapter (Section 410.52 sets forth the scope and conditions of Medicare Part B coverage of home dialysis services, supplies, and equipment).
+ Institutional dialysis services and supplies (Section 410.50 sets forth the scope and conditions for Medicare Part B coverage of institutional dialysis services and supplies).
+ Dialysis-related emergency services.
+ Dialysis-related laboratory tests that are covered under the composite rate established at § 413.170 and to arrange for the laboratory to seek payment from the facility. The facility then includes these laboratory services in its claim for payment for the home dialysis support services it furnishes.
+ Dialysis-related laboratory tests that are not covered in the composite rate established at § 413.170 and for which the laboratory files a Medicare claim directly.
+ All other necessary dialysis services and supplies (that is, those which are not home dialysis equipment and supplies).

- The facility with which the agreement is made must be located within a reasonable distance from the patient's home (that is, located so that the facility can actually furnish the needed services in a practical and timely manner, taking into account variables like the terrain, whether the patient's home is located in an urban or rural area, the availability of transportation, and the usual distances traveled by and transit time for patients in the area to obtain health care services). This provision was designed to prevent a supplier from circumventing the intent of the proposed rule by, for example, simply arranging with a facility in one location to agree to furnish backup services to patients who may be located all over the country.

In the proposal, we noted that examples of home dialysis support services include, but are not limited to, periodic monitoring of the patient's home adaptation, consultation for the patient with a qualified social worker and a qualified dietitian, emergency visits by qualified facility personnel, and certain dialysis-related laboratory tests. (See § 405.2163(e), which lists self-dialysis support services, and § 410.52, which lists the scope of home dialysis services, supplies, and equipment paid for by Medicare Part B and conditions for payment.) We stated that suppliers would be precluded from furnishing home dialysis support services directly. Only dialysis facilities may be paid for furnishing home dialysis support services.

As the basis for the new § 414.330(b), we proposed to use § 405.544(b), which explained how payment for home dialysis support services are made. We proposed to restructure § 405.544(b) for clarity and redesignate it as § 414.330(b). To conform to section 6203(b), we proposed to delete the reference to situations in which a beneficiary obtains either supplies or equipment or both from a supplier. We indicated that, in accordance with the recent legislation, under Method II the beneficiary must receive both supplies and equipment from the same supplier. In addition, and also to conform to section 6203(b), we proposed that in no case may the amount of payment for support services exceed the limit we would establish for support services in paragraph (c)(1) of § 414.330, which is described below.

In a new paragraph (c), we proposed payment limits on home dialysis supplies, equipment, and support services to implement section 6203(b) of Pub. L. 101-239. We proposed dividing the Congressionally established cap into separate caps for home dialysis support services and for supplies and equipment. The maximum amount for home dialysis support services would be subtracted from the statutory cap; the remainder would be the maximum paid for supplies and equipment.

In paragraph (c)(1), we stated that the amount of payment for home dialysis support services is limited to the national average Medicare-allowed charge per patient per month for home dialysis support services as determined by HCFA, plus the median cost per treatment, as determined by HCFA, for all dialysis facilities for laboratory tests included in the composite rate multiplied by the national average number of treatments per month.

Our data showed that the average amount of charges for home support services exclusive of laboratory services furnished in fiscal year 1989 and $97.83 per patient per month. (The median charge could not be determined from the available data.) The median cost per treatment for all dialysis facilities for laboratory services included in the composite rate established in accordance with § 413.170 was $2.21, based on HCFA's most recent audited dialysis facility cost data (1984/85 data). We proposed to multiply this amount by the average number of dialysis treatments that a dialysis patient receives per month to arrive at a monthly amount for laboratory services. The average number of dialysis treatments that a dialysis patient receives per month is 12.4. This takes into account missed treatments, treatments furnished in a dialysis facility (as distinguished from treatments in the home), and time spent in a hospital when the patient receives dialysis from the hospital. Multiplying $2.21 by 12.4, we arrived at a monthly amount of $27.40. This monthly amount for laboratory services was added to the amount for other support services to arrive at a total amount for home dialysis support services of $125.23 rounded to $125. Therefore, the proposed Method II cap to be applied by intermediaries to claims from dialysis facilities for home dialysis support services, including dialysis-related laboratory tests covered under the composite rate, was $125 per patient per month.

In paragraph (c)(2), we stated that payment for home dialysis equipment and supplies is limited to an amount equal to the result obtained by subtracting the support services payment limit in (c)(1) of this section, $125, from the amount (or, in the case of continuous cycling peritoneal dialysis, 130 percent) of the national median payment as determined by HCFA that would have been made under the prospective payment rates established in § 413.170 of this chapter for hospital-based facilities.

For purposes of implementing this limit, we calculated the median composite rate for hospital-based facilities. We used the actual payment rates currently in effect and arrayed them in ascending order by facility. We weighted each facility's rate by the number of treatments it reported for calendar year 1988. The median payment rate was $128.89. We rounded this amount up to $129.

Next, we calculated a monthly amount because home dialysis supplies and equipment are commonly furnished on a monthly basis and not on a per treatment basis. To assure standard application of the limits to all suppliers by all carriers, we proposed to require all supplies generally to bill on a monthly basis for one months quantity of supplies.

Thus, when we multiplied 12.4 (the average number of treatments per month) by $129 (the median payment rate), we got $1,599.60 as the monthly limit, a figure which we have rounded to $1,600. Therefore, the cap applied by carriers to claims from suppliers for home dialysis equipment and supplies furnished under Method II was proposed as $1475 per patient per month (that is, the median payment that would have been made under the prospective payment rates established in § 413.170 for hosptial-based facilities, $1600, minus $125). For CCPD, the limit was proposed as $1995 (that is, $125 subtracted from 130 percent of $1600).

Paragraph (c)(3) described the principles that would apply to the updates of these payment limits. It stated that updated data are incorporated in the payment limits when the prospective payment rates established in accordance with § 413.170 of this chapter are updated, and that changes are announced by notice in the **Federal Register** in accordance with the Department's established rulemaking procedures.

Ordinarily, when a home dialysis beneficiary requests a change in payment method, that change does not take effect until January 1, of the following year. To assist Method II beneficiaries who now find it necessary to change to Method I (for example, those whose Method II suppliers may not wish to continue to furnish home dialysis equipment and supplies), we proposed to provide a one-time-only opportunity for home dialysis patients to change from Method II to Method I immediately, without having to wait until January 1 of the next year for it to take effect. Beneficiaries wishing to do so would be required to file a Form HCFA-382 with HCFA indicating the method change within 4 months of the effective date of the final rule. If the HCFA-382 is received after this date, the change would not take effect until the following January 1, the usual date for any method change.

II. Discussion of Public Comments on the Proposed Rule

In response to the December 26, 1990, proposed rule, we received 18 timely items of correspondence. Comments were received from a wide variety of correspondents, including hospital-based and independent dialysis facilities, dialysis supply companies, national associations, physician associations, a consulting firm, a carrier, and a concerned taxpayer.

While some commenters agreed with specific provisions or all of the provisions of the proposed rule, others offered specific comments. A discussion of the comments and our responses to them follow.

A. Payment Methodology

One commenter stated that the formula for calculating the Method II cap is reasonable. A discussion of the remaining comments on payment methodology and our responses to them follow.

1. *Comment:* One commenter suggested that the Method II program is too complicated to administer effectively and is subject to "kickback" abuses.

Response: This commenter did not specify which aspects were too complicated and did not give any suggestions on how to improve the program; however, we believe the provisions of this rule will keep administrative complexity to a minimum. Further, we will be monitoring the program for possible abuse

2. *Comment:* A commenter suggested that the Method II cap should be increased to reflect the $1.00 per treatment increase of the composite rate.

Response: We agree with the commenter Section 4201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) amended section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) to require that, effective January 1, 1991, there would be an increase in the composite rate of $1.00 per treatment. This increase, in turn, allows an increase in the Method II cap, because the statute allows a payment up to the median composite rate or (130 percent of the median in the case of CCPD) paid to hospital-based dialysis facilities. The new median rate is, therefore, $130 per

treatment (instead of $129 as shown in the proposed rule). We have decided to set the cap at the maximum amount allowed by law. Substituting this new amount in the Method II cap computation yields 12.4 (average number of dialysis treatments per month) × $130 = $1,612 per month ($2,095.60 for CCPD).

3. *Comment:* A commenter stated that a monthly cap is inequitable. If supplies are delivered on the first and last days of the month, and, therefore, no supplies are delivered the next month, only one shipment is paid in the first month and none is paid in the second month because no delivery occurred in the second month. Similarly, there is an inequity for support services if $300 worth of services are furnished in the first month and only $60 worth of services are furnished in the second month.

Response: We chose to implement the cap on a monthly basis because, historically, supplies, equipment, and support services have been billed on a monthly basis. There is nothing that precludes a supplier from adjusting its schedule to avoid a situation in which there are two deliveries in one month and none in the next.

4. *Comment:* A commenter stated that sometimes a home patient receives 13 treatments in a month, and HCFA is paying for only 12.4 treatments. The commenter suggested that the limit should be based on the maximum number of treatments per month (such as 13) not the average of actual treatments (12.4).

Response: In accordance with section 6203(b) of Public Law 101–239, the cap must be based on the median payment that would have been made under the formula [that is, Method I] for hospital-based facilities. The payment that would have been made is based on treatments actually furnished, and this is an average of 12.4, not 13. Furthermore, the beneficiary is permitted a reserve of one month's supplies. In the unusual case of 13 treatments in a single month, the beneficiary can use part of this reserve and restore the reserve as treatments are missed over time.

5. *Comment:* A commenter suggested that a monthly cap based on 12.4 treatments per month disadvantages Method II suppliers as compared to Method I facilities when 13 treatments take place. The commenter also suggested that HCFA should allow a carryover from month to month.

Response: While Method II suppliers may be at a disadvantage when 13 treatments take place in one month, in other instances Method II suppliers will be at an advantage when only 12 or fewer treatments take place in a month. We believe that, in using an average, our policy will most closely correspond to actual experience.

6. *Comment:* A commenter stated that the average cost of support services is not appropriate to use as the limit. Some amount higher than the average should be used as the limit.

Response: We recognize that the cost of furnishing support services to some patients may exceed the allowance, but for others it should be considerably less than the allowance. Since facilities may set their charges higher than their costs and retain the unexpended portion of these allowances, in the aggregate they should not be disadvantaged. Facilities also have the option of not entering into Method II agreements, if they believe that such arrangements are not to their advantage.

7. *Comment:* A commenter suggested that HCFA should begin with a base of zero and build up the limit based on suppliers' actual costs through the established inherent reasonableness methodology rather than the legislative cap. This would afford interested parties the opportunity to comment. Another commenter stated that HCFA should determine the items and services that should be provided and then set the cap based on the costs of those items and services.

Response: We could not set the payment cap based solely on suppliers' costs because we do not have access to suppliers' costs; only facilities' costs are reported to us. Furthermore, we have set the cap at the maximum level allowed by law. As for the opportunity for the public to comment, the proposed rule served that purpose. Carriers may still use inherent reasonableness to arrive at a lower cap. This rule does not substitute for that option. It establishes a national cap that is based on the median composite rate paid to hospital-based facilities and is the maximum amount allowed by law.

8. *Comment:* A commenter suggested that a higher payment cap should be allowed for pediatric home patients.

Response: Again, we have set the cap at the maximum amount allowed by law.

9. *Comment:* A commenter suggested that supplies and support services will both be scheduled so as to evenly fall within a month, thereby a Method II patient may not receive items and services they need when they need them.

Response: Again, we have implemented this provision on a monthly basis for the reasons stated above. We will monitor Method II patients to ensure that their care is not compromised.

10. *Comment:* A commenter disagrees that congressional intent was to limit payment under the Method II to the Method I amount. For example, the payment cap for CCPD was set at 130 percent of the Method I amount. The commenter suggested that HCFA should set a higher limit, taking into account more expensive high technology that is not reflected in the Method I payments, when the technology is cost beneficial.

Response: The law is quite specific as to the maximum amount that can be paid under Method II. It does not provide a way to take technological improvements immediately into account in the Method II cap methodology. Furthermore, new technologies are incorporated by Method I facilities to the extent they are found to be worthwhile, and would, thus, ultimately be reflected in the Method II rate.

Finally, to the extent this commenter argues that higher technology benefits the Medicare program with lower hospitalization and infection rates, less need for medications, etc., no data were submitted to document any saving.

11. *Comment:* A commenter suggested that support services be paid for outside the Method II cap and that the Prospective Payment Commission (ProPac) be allowed to study the appropriate basket of services and cost limit.

Response: The law would not permit such a plan. Again, the same items and services are furnished under Method I as Method II, and limiting payment under Method II to the level of Method I provides equal payment for the same services.

12. *Comment:* A commenter suggested that we provide adjustments in the cap that take into account differences in patient mixes. The commenter suggested that we allow payments for support services in excess of $125 where the costs of medically necessary services furnished exceed $125. The commenter suggested that the payments in excess of $125 would be deducted from the suppliers' portion of the cap.

Response: We disagree with the commenter. We are setting a national cap, not a payment rate that is varied to take individual patient status into account. This is consistent with the whole composite rate payment system. While we do not believe that it is necessary or appropriate to raise the support limit with a corresponding reduction in the limit for supplies on a case-by-case basis, we will continue to monitor this limit.

13. *Comment:* A commenter stated that the proposed support services cap does not allow for the costs of documentation, billing, and bill collecting.

Response: We based the cap on facilities' charges, not costs. Facilities' charges should have adequately reflected all of the costs that enter into furnishing support services, including all overhead and administrative expenses.

14. *Comment:* A commenter suggested that the present method of payment for support services should be maintained. The commenter asked why we would reduce payment to a supplier for these services.

Response: The law provides for a cap on Method II payments based on the composite rate. The composite rate includes support services as well as supplies and equipment. By including support services and supplies and equipment under the Method II cap, we provide equal payment for equal services since payment for these services would also be derived from the Method I composite rate.

15. *Comment:* A commenter requested that we not have two caps (that is, one cap for support services and a separate cap for supplies and equipment). The commenter suggested that the full Method II cap should be paid to the supplier and HCFA should require the dialysis facility to look to the supplier for payment for support services.

Response: This was not the opinion of any of the facilities or suppliers who commented on the proposed rule. We considered this approach in developing the proposed rule and rejected it because we did not believe it to be a viable alternative. As stated in the proposed rule, "We considered applying the overall limit mandated by section 6203(b) of Public Law 101-239 to suppliers and requiring dialysis facilities to look to the supplier for payment of any support services it furnished. However, this would make for very complex agreements between suppliers and facilities. Neither party could know how many support services would be required for an individual in a given month. Therefore, neither the facility nor the supplier would know how much money would be spent on support services and how much was available for supplies and equipment. This unpredictable financial situation could endanger the viability of Method II." (55 FR 53009)

16. *Comment:* A commenter suggested a geographical adjustment to the limit to take into account differences in costs around the country.

Response: The law provides a maximum amount that HCFA can pay for these items and services. Therefore, we do not have the discretion to set regional limits that exceed this maximum. Moreover, the limit is generous in that it is set at the median hospital-based facility rate and not the median of all dialysis facilities. The median rate for all dialysis facilities is less than $128 since there are twice as many independent facilities as hospital-based, and the independents' rates are $4 lower. Also, payment for most home patients is made under Method I and at the composite rate, so it is clearly possible to furnish home dialysis at this rate.

B. Support Services

One commenter agreed with our proposal that only approved facilities should provide support services and that these should be under the Method II cap.

A discussion of the remaining comments on support services and our responses to them follows.

1. *Comment:* A commenter stated that it is unfair to require a nearby dialysis facility to furnish backup. A local backup dialysis facility is not required under Method I and not always practical, especially in the case of Veterans Administration (VA) hospitals. There is no evidence that permitting payment to nonlocal facilities for support services has done any harm.

Response: The requirement for a local backup dialysis facility applies in the context of the usual distances traveled in the patient's area in order to obtain medical care. It is not required to be the facility closest to the beneficiary. VA hospitals can serve as backup facilities, and it is left up to the medical judgment of the hospital and intermediary medical review staff to determine a reasonable distance.

2. *Comment:* Another commenter opposed the requirement that a local facility furnish support services because he feared that it would make Method II unavailable in many areas, or that a patient, who might be dissatisfied with the local facility, would not have other options for support services.

Response: A facility can furnish support and emergency and infacility backup (as required by the law) only if it is located within a reasonable distance of the patient so that the patient can practically go to the facility to obtain the services. Where dissatisfaction or a similar problem exists, it should be resolved through the grievance procedure required by the regulations of all dialysis facility (§ 405.2138(e)) and ESRD networks (§ 405.2138(e)).

3. *Comment:* A commenter believes that local facilities could act in concert to eliminate competition from Method II by agreeing not to provide support services.

Response: HCFA cannot require a facility to participate in a Method II agreement.

4. *Comment:* A commenter stated that the legislation requires a written backup agreement only when the patient is not under the direct care of a Medicare approved dialysis facility. Since almost all patients are under the care of a dialysis facility, this requirement should be dropped.

Response: We disagree with the commenter. Section 1881(b)(4)(A) of the Act means by the phrase, "not under the direct care of a Medicare approved dialysis facility", all patients who are not under Method I. The intent of the provision is to assure that Method II patients, who contract with suppliers directly, also have dialysis facility for necessary support and backup services.

5. *Comment:* Some commenters stated that facilities' costs for home support is three to four times the proposed $97.83 per month cap. They suggested HCFA examine facility costs to determine the cost for home support.

Response: We disagree with the commenters. We set the Method II cap for home support services based on the national average billed charges. If anything, billed charges should be generous because they exceed the facilities' costs. We also updated this amount to reflect FY 1990 charge data.

6. *Comment:* In contrast with the previous comment, one commenter's experience is that infrequent, expensive support services raise the average charge for support services as a whole and that this results in the support services portion of the cap being overstated in the proposed rule. The commenter stated that HCFA should make public all facilities' charges for support services.

Response: We have available only the total support charges which we divided by the total number of claims. We do not have any array of individual charges. However, we will monitor total support charges and recalibrate the limit when data indicate the need for a change.

7. *Comment:* A commenter stated that ancillary costs such as dietary counselling and social workers have not been taken into account.

Response: We disagree with the commenter. These costs have been taken into account to the extent that claims for these services have been filed. We have no other way to know what these costs are.

8. *Comment:* A commenter stated that Congress intended to limit payments

only to suppliers under Method II, not providers of support services.

Response: We disagree with the commenter. Section 1881(b)(7) of the Act includes payment for support services and states that the Secretary shall provide by regulation for a method (or methods) for determining prospectively the amounts of payments to be made for dialysis services furnished by providers of services and renal dialysis facilities to individuals in a facility and to such individuals at home. Such method (or methods) shall provide for the prospective determination of a rate (or rates) for each mode of care based on a single composite weighted formula (which takes into account the mix of patients who receive dialysis services at a facility or at home and the relative costs of providing such services in such settings) for hospital-based facilities and such a single composite weighted formula for other renal dialysis facilities, or based on such other method or combination of methods which differentiate between hospital-based facilities and other renal dialysis facilities and which the Secretary determines, after detailed analysis, will more effectively encourage the more efficient delivery of dialysis services and will provide greater inoentives for increased use of home dialysis than through the single composite weighted formulas. The amount of a payment made under any method other than a method based on a single composite weighted formula may not exceed the amount (or, in the case of continuous cycling peritoneal dialysis, 130 percent of the amount) of the median payment that would have been made under the formula for hospital-based facilities.

The phrase "the amounts of payments to be made for dialysis services furnished * * * to such individuals at home * * *" and the phrase "shall provide for the prospective determination of a rate * * * which takes into account the mix of patients who receive dialysis services at a facility or at home * * *" both indicate Congressional intent to include payment for home dialysis services under the composite rate payment method. Also, Congress based the Method II cap on the median composite rate for hospital-based facilities; that payment amount includes allowances for home dialysis support services, as well as supplies and equipment. We believe that this indicates Congress' intent that the payment cap apply not only to equipment and supplies, but, like the composite rate, to all home dialysis services, including home dialysis support services.

9. *Comment:* Some commenters inquired how program data (for example, patient census data) on Method II patients will be reported to ESRD networks and HCFA.

Response: The backup facility is responsible for reporting, on the patient census forms required by HCFA and ESRD networks, all Method II patients for whom it furnishes backup and home dialysis support services. Furthermore, we believe that it is consistent with the treatment relationship which exists between the facility and the home dialysis patient that the facility be responsible for maintaining the patient's medical record as required by 42 CFR part 405, subpart U. Therefore, all ESRD-related items and services must be reported to the facility so that the medical record is complete and accurate.

C. Rate

A commenter who agrees with the cap said that Method II suppliers must understand that the Method II program is not in place to guarantee them a profit, but to provide a choice for home dialysis beneficiaries to deal directly with suppliers instead of dealing through a dialysis facility.

A discussion of the remaining comments on the rate and our responses to them follow.

1. *Comment:* A facility stated that it cannot afford to do CCPD under Method I. With this cap, the facility will not be able to do CCPD under Method II either. The facility has 2 Method II patients (CCPD) who require a visit each week and require many laboratory tests (such as HHA, Fe, TiBe, Ferritin).

Response: Congress has taken the higher cost of CCPD into account with a 130 percent higher cap for CCPD. Also, many facilities do CCPD under Method I. Most of the extra lab testing mentioned by the commenter is separately billable and not included under the cap. Examples of separately billable lab tests are: HHA, Fe, TiBe, Ferritin. Also, facility staff and physicians may want to consider whether patients who require an atypical amount of support services would benefit from being treated in the facility rather than at home.

2. *Comment:* A commenter stated that some Method II home patients are not in condition to go to a facility for dialysis and do not have volunteer partners available to help them with home dialysis. This further cut will drive Method II suppliers out of the business. Without suppliers only facilities remain and facilities cannot afford to take care of home patients.

Response: The fact that most home patients (65 percent) are Method I demonstrates that facilities can afford to take care of home patients at the Method I rate. Furthermore, we are not aware of any data that substantiates the allegation that patients cannot dialyze at home under the Method II proposal payment cap.

3. *Comment:* A commenter stated that the proposed payment limit of $1,475 for supplies is too high. The cost of supplies is less than $1,100 per month.

Response: The monthly payment limit of $1,475 was proposed as the maximum allowable payment for home dialysis supplies and equipment, except in the case of continuous cycling peritoneal dialysis. This monthly cap for supplies and equipment reflects the median payment that would have been made under the prospective payment rates for hospital based facilities, minus the allowance for support services. We anticipate that actual costs may vary. However, we emphasize that monthly payments for these services may not exceed the stated limit. We will continue to monitor the appropriateness of the Method II payment cap. Updated data will be incorporated in the payment limits when the prospective payment rates are updated. New rates will be published in the **Federal Register.**

4. *Comment:* A commenter stated that the lab limit is too low for high-cost areas of the country.

Response: The same lab tests under the Method II cap are provided to over 100,000 dialysis patients every month under the composite rate. There is no evidence that ESRD lab costs vary geographically. Labs specializing in ESRD work typically have patients all over the country and handle testing by mail. In addition, most facilities receive discounts from labs that perform their lab work.

5. *Comment:* A commenter stated that rural supply companies cannot purchase supplies for $1,475 per month. Shipping in rural areas is too expensive.

Response: We disagree with the commenter. Facilities purchase supplies under Method I; thus, we believe supplies can also be purchased under Method II at comparable rates. Also, as noted above, we have raised this cap to $1,490.85 per month because of the increase in the median composite rate of $1.00 per treatment (from $129 to $130). The $1,490.85 was determined by calculating the overall limit for home dialysis supplies and equipment and support services (new median rate of $130 per treatment x 12.4, the average number of dialysis treatments per

month=$1,612 per month ($2,095.60 for CCPD)) and subtracting from that amount the amount for home support services. We note that we have increased the cap for home support services based on Fiscal Year (FY) 1990 data, which have become available. At the time of the proposal, only charge data from FY 1989 were available. The FY 1990 data show an increase in the average charge for home dialysis support services from $97.83 to $103.17 per month. Similarly, we have used cost data for laboratory services from 1988 that shows the cost per treatment to be $1.45 or $17.98 per month ($1.45x12.4=$17.98). At the time of the proposal, only cost data from 1984 and 1985 were available. Adding to this amount the average cost per month for laboratory services included in the composite rate ($17.98) gives a total for home support services of: $103.17+$17.98=$121.15. This amount is subtracted from the overall cap to obtain the new supplies and equipment cap of $1,490.85 ($1,612 per month ($2,095.60 for CCPD)-$121.15=$1,490.85 per month ($1,974.45 for CCPD)).

D. Data

1. *Comment:* A commenter suggested that HCFA should study the real costs of Method II in case the cap makes Method II unviable.

Response: The OIG has studied these costs in its investigation of CAPD (report number CIN: A-09-87-00108) and found that the real costs of CAPD are considerably lower than the cap. Nevertheless, we decided to set the cap at the maximum amount allowed by law.

2. *Comment:* A commenter stated that the charge data in the proposed rule on support services are questionable.

Response: These are the only data available. Moreover, they are *charge* data, not cost data, so they should exceed facility costs.

3. *Comment:* A commenter stated that the data we used are poor and that intermediaries arbitrarily limit charges for home support services to $75 per month.

Response: We disagree with the commenter. We used data on charges as submitted by facilities, not as allowed by the intermediary.

4. *Comment:* A commenter stated the support service charge data from 1989 are outdated and do not account for large salary increases, gasoline, and phone expenses. In rural areas $97 would not cover the cost of one home visit.

Response: We have updated the charge data to FY 1990 using the most recent data available. (See comment 5, in section II.C. above).

E. Laboratories

1. *Comment:* A commenter stated that the law requires the lab, and not ESRD facilities, to bill for tests. Also, the fee schedule for lab tests should apply, not an arbitrary cost figure. Laboratory tests included in the composite rate are excepted from the fee schedule because there is no bill submitted.

Response: We disagree with the commenter. The Committee Report for the Deficit Reduction Act of 1984 (Pub. L. 98-369, enacted on July 18, 1984) (H.R. Rep. No. 98-861, 98th Congress, 2d Session 1310 (1984)) indicates Congress' intent to except from the fee schedule tests furnished by ESRD facilities and included under prospective payments like the composite rate. The composite rate includes payment for these tests under Method I. In order to make comparable payments for lab tests furnished under Method II, we must require facilities to bill for these tests under Method II. Also, if lab services are included under the cap, facilities have an incentive to keep lab costs down. The portion of the limit for home support services that accounts for lab tests is not arbitrary; it is based on the amount facilities now pay for these tests.

2. *Comment:* A commenter stated that it will be very expensive for facilities to reprogram their computers to bill for lab services.

Response: We disagree with the commenter. Hospital-based dialysis facilities already bill for laboratory services. While some independent facilities may have to change their billing systems, other changes are necessitated by the new HCFA requirement for the use of HCPCS to bill for separately billable drugs. The additional effort to change for the billing of laboratory services under Method II should, thus, be minimal.

3. *Comment:* A commenter stated that facilities cannot absorb the cash flow problem of these lab tests being billed to them by the lab.

Response: We see no difference in this regard between Method I and Method II. Facilities absorb the cash flow problem now for tests being billed to them by labs under the composite rate.

4. *Comment:* A commenter stated that it is too great a burden to impose on intermediaries to process claims for ESRD lab tests from dialysis facilities. Intermediaries will not be able to apply the payment limit to these lab tests.

Response: We disagree with the commenter. We expect Medicare intermediaries to be able to apply these limits.

5. *Comment:* A commenter stated that lab costs based on 1984 and 1985 facility costs are overstated, resulting in the supplier portion of the cap being too low.

Response: Since the proposal, 1988 cost data for laboratory services have become available, and the monthly amount was lowered from $27.40 ($2.21 × 12.4) to $17.98 ($1.45 × 12.4).

6. *Comment:* A commenter stated that laboratories will not provide these lab tests for $27.40 per month.

Response: We disagree with the commenter. Laboratories provide these services to over 100,000 dialysis patients under the composite rate, and the median cost to facilities for these services for 1988 is $17.98 per month. We have no reason to believe that the same tests would not be available under Method II.

7. *Comment:* A commenter stated that facilities have no control over lab work; it is ordered by the physician. Lab tests should not be included under the cap.

Response: We disagree with the commenter. Only the standard lab tests included under the composite rate are included under the Method II cap. Extraordinary lab tests separately billable under Method I are also not under the cap and are not the responsibility of the facility.

E. Miscellaneous

1. *Comment:* A commenter stated that the option for mid-year change of method should apply from Method I to Method II also.

Response: We disagree with the commenter. The reason for a mid-year change is because Method II under this new payment limit is less favorable than under the prior law. Beneficiaries may not be able to continue to do business with their current suppliers. No such change is being imposed on Method I patients; therefore, we see no reason to extend to Method I patients an opportunity to change methods.

2. *Comment:* A commenter suggested that we allow a change of method with 30 days notice. Allowing a change of methods can be a matter of life and death to patients whose care from a dialysis facility is otherwise substandard. HCFA should be able to administer this.

Response: It is difficult for HCFA to protect against duplicate payments even absent more frequent changes in payment method. At this time, we cannot administratively handle a system that permits changes more frequently than once a year. Patients can use the

grievance procedure to resolve problems with facilities. Also, patients are free to change facilities, even without a change in method.

3. *Comment:* A commenter questioned who is responsible for maintaining home dialysis equipment—the facility providing home support or the supplier.

Response: The supplier is responsible for maintaining the equipment. Maintenance is associated with the equipment itself. Any guarantees would inure to the supplier who owns the equipment and, therefore, maintenance is appropriately the responsibility of the supplier.

4. *Comment:* A commenter asked if the connecting tube for CAPD patients, which is periodically changed, is part of the supplier's payment cap or part of the support services' cap.

Response: The connecting tube is a supply and part of the supplier's payment cap. While the facility changes the tube, the facility must look to the supplier for payment of this item.

5. *Comment:* A commenter questioned whether the Method II supplier must furnish erythropoietin (EPO).

Response: EPO, as all drugs, requires a physician's prescription to be covered. EPO is not included in the Method II cap, just as it is not included in the composite rate. Therefore, once EPO is prescribed by the physician, either the patient's Method II supplier or dialysis facility may furnish the EPO.

6. *Comment:* A commenter questioned whether EPO is subject to the requirement that a beneficiary may not be required to pay more than 20 percent of the Medicare allowed charge.

Response: This depends upon who furnishes the drug. If a dialysis facility or home dialysis supplier furnishes EPO, there is mandatory assignment, and this protection applies. If a physician furnishes the EPO, assignment is optional. If the physician does not accept assignment, the protection of the limiting charge applies, and the beneficiary may be charged the difference between Medicare's payment and the physician's charge, which, at this time, may be as much as 120 percent of Medicare's allowed charge.

7. *Comment:* A commenter questioned if one-time-only durable supplies such as a weight scale or sphygmomanometer with cuff are included under the Method II payment cap.

Response: Yes. These items are included in the complete rate paid to dialysis facilities under Method I and, therefore, are included in the Method II payment cap as well.

F. Impact

1. *Comment:* A commenter stated that we need to determine the impact of this limit, such as, quality of care and facilities' costs.

Response: We have attempted to assess the impact using the data available. All interested parties were encouraged to submit data, but no one did.

2. *Comment:* A commenter stated that the Method II cap discourages home dialysis by reducing the amount paid to Method II suppliers who might now withdraw from this business.

Response: As we have stated before, the cap is required by law. We are allowing as much under Method II as under Method I. In the case of CCPD, the program allows 30 percent more under Method II than under Method I. Also, home dialysis is always available through Method I.

3. *Comment:* A commenter stated that the proposed rule would increase coinsurance liability for beneficiaries.

Response: The commenter did not explain how the rule would increase coinsurance liability. We believe it will decrease as compared to the present. The present payment allowance is $1,600 per month for supplies alone, and support services are in addition to that amount. Therefore, the copay is presently 20 percent of $1,600 plus 20 percent of the charges for support services. Support services will be under the new limit and the amount of the copay will decrease proportionately.

4. *Comment:* A commenter stated that under the cap on supplies and equipment, suppliers will not provide the latest technology, such as systems that prevent peritonitis, and this will result in greater expense to the program in terms of increased hospitalization for peritonitis.

Response: The law requires a cap on supplies and equipment. We expect that ESRD networks, patient groups, facilities, nurses or physicians will identify suppliers who provide substandard items and not refer patients to them. The point is that the items in question currently are provided by facilities under Method I.

5. *Comment:* A commenter stated that the composite rate allows for basic equipment costs, not the upgraded, more sophisticated equipment. The impact on beneficiaries that was discussed in the regulatory impact statement of the proposed rule did not mention the possibility that lower cost equipment and supplies would be furnished in response to the new cap. This would adversely affect beneficiaries.

Response: We disagree with the commenter. The Method II cap is comparable to Method I and therefore, should allow for the same kinds of equipment. Furthermore, no information was submitted showing that providing lower cost equipment and supplies amounts to substandard care. Most beneficiaries are under Method I and they receive good care at this payment level.

III. Provisions of the Final Rule

Based on our analysis of the comments, we are adopting the provisions as set forth in the December 26, 1990 proposed rule. However, as noted above in the "Comment and Response" section, the Method II payment cap has been increased due to an increase in the median composite payment rate as required by section 4201 of Public Law 101-508. We also stated in the "Comment and Response" section that since FY 1990 data have become available, there is an increase in the average charge for home dialysis support services from $97.83 to $103.17 per month, which makes the total for home support services $121.15. The new supplies and equipment cap is $1,490.85 ($1,974.45 for CCPD).

VI. Regulatory Impact Statement and Flexibility Analysis

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. 12291 criteria for a "major rule": that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with section 6203(b) of Public Law 101-239, this final rule limits Medicare payment for Method II home dialysis equipment and supplies and support services. It sets two caps: One for support services and one for supplies and equipment. Currently, under Method II, payment to suppliers for home dialysis supplies and equipment is made by the Medicare carrier on a fee-for-service basis, subject to a $1600 per patient per month limit except for CCPD

which is subject to a $2080 per patient per month limit. This limit became effective February 1, 1990 with the issuance of the Medicare Carriers Transmittal No. 1336 dated February, 1990. Support services furnished by a dialysis facility are paid by the Medicare intermediary without any limit. Hospital-based facilities are paid on the basis of cost for support services; independent facilities are paid on the basis of charges related to costs for support services.

In accordance with the law and these regulations, the following estimates, which reflect a decrease in program expenditures, represent the impact of increasing the overall cap by 7.5 percent, establishing a cap for home dialysis support services as well as reducing the cap for supplies and equipment:

Federal savings per Fiscal Year (FY)

[In millions, rounded to nearest $5 million]

FY 92	$15
FY 93	20
FY 94	20
FY 95	25

Since this final rule does not meet the $100 million criterion, nor do we believe that it meets the other E.O. 12291 criteria, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all suppliers of home dialysis equipment and supplies, laboratories, and providers of home dialysis support services to be small entities.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural hospital impact analysis since we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

We are preparing a regulatory flexibility analysis because of the large number of suppliers and laboratories that we anticipate will be affected by this final rule. The following discussion describes the anticipated impact on affected parties.

1. Impact on Supplies

Suppliers of home dialysis equipment and supplies have had a payment cap of $1,600, and in the case of CCPD, $2,080, per patient per month since January 1, 1991, as required by Public Law 101–508.

This final rule will divide the Congressionally-established cap on Method II into two separate caps: one for home dialysis support services and one for supplies and equipment. The amount for support services is subtracted from the statutory cap; the remainder is the maximum paid for supplies and equipment. We do not have data which will help us estimate the extent that suppliers' income will be reduced. We believe, however, that a majority of suppliers of home dialysis equipment and supplies will be affected. Those not affected will be those suppliers that were charging less than the cap per month. To compensate for the reduction in payment, affected suppliers may seek to provide less expensive supplies and equipment. Suppliers may also request physicians to review orders for supplies and equipment to justify the quantity ordered, possibly reducing unnecessary use, and thereby, lowering costs.

2. Impact on Laboratories

The facility responsible for providing support services must arrange for dialysis-related laboratory tests to be performed by a Medicare-approved laboratory. The limit for support services will include payment for dialysis-related laboratory tests included in the composite rate. Therefore, since a laboratory will be paid for the laboratory services included in the composite rate by the facility providing support services, the laboratory's payment for those services will depend upon its arrangements with the facility. Payment for all other dialysis-related laboratory services will not be affected by this regulation.

3. Impact on Beneficiaries

Beneficiaries are responsible for the 20 percent coinsurance associated with home dialysis services. Our data show that the average amount of charges for home support services furnished in FY 1990 was $103.17 per patient per month. The median cost for laboratory services in the composite rate per patient per month was calculated to be $17.98. Therefore, the cap applied by intermediaries to claims from dialysis facilities for home dialysis support services furnished under Method II is $121.15 ($103.17 + $17.98) per patient per month. Each beneficiary will realize a savings of 20 percent of the difference in payment (coinsurance), due to the limit on payment for support services. Comparing the cap in this rule to the cap currently in effect of $1600 for home dialysis supplies and equipment, our actuaries estimate the following average savings per Method II beneficiary per calendar year.

Estimated Average Savings per Beneficiary per Calendar Year (CY)

(Rounded to the nearest $50)

CY 92	$450
CY 93	550
CY 94	600
CY 95	700

4. Conclusion

Although this final rule, as required by Public Law 101–239, will reduce the revenue of suppliers of home dialysis equipment and supplies and the revenue of some laboratories, the overall effect will be to pay these suppliers and laboratories rates that are comparable to rates paid to dialysis facilities for similar services. Medicare beneficiaries should benefit as the result of lower coinsurance payments. The Medicare program itself will benefit as a result of program savings.

List of Subjects in 42 CFR Part 414

End-stage renal disease (ESRD), Health professions, Laboratories, Medicare.

42 CFR part 414, subpart E is amended as set forth below:

PART 414—PAYMENT ON A REASONABLE CHARGE BASIS

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1833(a), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 13951(a), 1395hh, and 1395rr).

Subpart E—Determination of Reasonable Charges Under the ESRD Program

2. A new § 414.330 is added to read as follows:

§ 414.330 Payment for home dialysis equipment, supplies, and support services.

(a) *Equipment and supplies*—(1) *Basic rule.* Except as provided in paragraph (a)(2) of this section, Medicare pays for home dialysis equipment and supplies

only under the prospective payment rates established at § 413.170.

(2) *Exception.* If the conditions in subparagraphs (a)(2) (i) through (iv) of this section are met, Medicare pays for home analysis equipment and supplies on a reasonable charge basis in accordance with subpart E (Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians) of part 405, but the amount of payment may not exceed the limit for equipment and supplies in paragraph (c)(2) of this section.

(i) The patient elects to obtain home dialysis equipment and supplies from a supplier that is not a Medicare approved dialysis facility.

(ii) The patient certifies to HCFA that he or she has only one supplier for all home dialysis equipment and supplies. This certification is made on HCFA Form 382 (the "ESRD Beneficiary Selection" form).

(iii) In writing, the supplier—

(A) Agrees to receive Medicare payment for home dialysis supplies and equipment only on an assignment-related basis; and

(B) Certifies to HCFA that it has a written agreement with one Medicare approved dialysis facility or, if the beneficiary is also entitled to military or veteran's benefits, one military or Veterans Administration hospital, for each patient. (See subpart U of part 405 of this chapter for the requirements for a Medicare approved dialysis facility.) Under the agreement, the facility or military or VA hospital agrees to the following:

(*1*) To furnish all home dialysis support services for each patient in accordance with subpart U (Conditions for Coverage of Suppliers of ESRD Services) of this chapter. (§ 410.52 sets forth the scope and conditions of Medicare Part B coverage of home dialysis services, supplies, and equipment.)

(*2*) To furnish institutional dialysis services and supplies. (§ 410.50 sets forth the scope and conditions for Medicare Part B coverage of institutional dialysis services and supplies.)

(*3*) To furnish dialysis-related emergency services.

(*4*) To arrange for a Medicare approved laboratory to perform dialysis-related laboratory tests that are covered under the composite rate established at § 413.170 and to arrange for the laboratory to seek payment from the facility. The facility then includes these laboratory services in its claim for payment for home dialysis support services.

(*5*) To arrange for a Medicare approved laboratory to perform dialysis-related laboratory tests that are not covered under the composite rate established at § 413.170 and for which the laboratory files a Medicare claim directly.

(*6*) To furnish all other necessary dialysis services and supplies (that is, those which are not home dialysis equipment and supplies).

(*7*) To satisfy all documentation, recordkeeping and reporting requirements in subpart U (Conditions for Coverage of Suppliers of ESRD Services) of this chapter. This includes maintaining a complete medical record of ESRD related items and services furnished by other parties. The facility must report, on the forms required by HCFA or the ESRD network, all data for each patient in accordance with subpart U.

(iv) The facility with which the agreement is made must be located within a reasonable distance from the patient's home (that is, located so that the facility can actually furnish the needed services in a practical and timely manner, taking into account variables like the terrain, whether the patient's home is located in an urban or rural area, the availability of transportation, and the usual distances traveled by patients in the area to obtain health care services).

(b) *Support services*—(1) *Basic rule.* Except as provided in paragraph (b)(2) of this section, Medicare pays for support services only under the prospective payment rates established in § 413.170 of this chapter.

(2) *Exceptions.* If the patient elects to obtain home dialysis equipment and supplies from a supplier that is not an approved ESRD facility, Medicare pays for support services, other than support services furnished by military or VA hospitals referred to in paragraph (a)(2)(iii)(B) of this section, under paragraphs (b)(2) (i) and (ii) of this section but in no case may the amount of payment exceed the limit for support services in paragraph (c)(1) of this section:

(i) For support services furnished by a hospital-based ESRD facility, Medicare pays on a reasonable cost basis in accordance with part 413 of this chapter.

(ii) For support services furnished by an independent ESRD facility, Medicare pays on the basis of reasonable charges that are related to costs and allowances that are reasonable when the services are furnished in an effective and economical manner.

(c) *Payment limits*—(1) *Support services.* The amount of payment for home dialysis support services is limited to the national average Medicare-allowed charge per patient per month for home dialysis support services, as determined by HCFA, plus the median cost per treatment for all dialysis facilities for laboratory tests included under the composite rate, as determined by HCFA, multiplied by the national average number of treatments per month.

(2) *Equipment and supplies.* Payment for home dialysis equipment and supplies is limited to an amount equal to the result obtained by subtracting the support services payment limit in paragraph (c)(1) of this section from the amount (or, in the case of continuous cycling peritoneal dialysis, 130 percent) of the national median payment as determined by HCFA that would have been made under the prospective payment rates established in § 413.170 of this chapter for hospital-based facilities.

(3) *Notification of changes to the payment limits.* Updated data are incorporated into the payment limits when the prospective payment rates established at § 413.170 of this chapter are updated, and changes are announced by notice in the **Federal Register** without a public comment period. Revisions of the methodology for determining the limits are published in the **Federal Register** in accordance with the Department's established rulemaking procedures.

(Sec. 1881 of the Social Security Act (42 U.S.C. 1395rr)) (Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 21, 1992.

William Toby,

Acting Deputy Administrator, Health Care Financing Administration.

Approved: April 22, 1992.

Louis W. Sullivan,

Secretary.

Note: This document was received at the Office of the Federal Register on November 6, 1992.

[FR Doc. 92-27434 Filed 11-16-92; 8:45 am]

BILLING CODE 4120-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1321

[Ex Parte No. MC-208]

Nonoperating Motor Carriers—Collection of Undercharges

AGENCY: Interstate Commerce Commission.

ACTION: Technical amendment.

SUMMARY: The Commission is issuing this technical amendment to conform the effective date in the regulations issued in this proceeding to a delayed effective date issued in a later notice. In this proceeding the Commission issued final rules providing for prior Commission review of certain classes of undercharge claims by nonoperating and certain other motor carriers.

EFFECTIVE DATE: This technical amendment is effective on November 17, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas Dahl (202) 927-5289 or Richard Felder (202) 927-5610 [TDD for hearing impaired: (202) 927-5621.]

SUPPLEMENTARY INFORMATION: On September 8, 1992 the Commission published final rules in this proceeding (57 FR 40857) making these regulations effective on September 23, 1992. On September 23, 1992 the Commission issued a notice (57 FR 43925) delaying the effective date of these regulations to October 8, 1992.

Certain revisions to the regulations are necessary to reflect the correct effective date of October 8, 1992. These revisions are set forth below.

List of Subjects in 49 CFR Part 1321

Claims, Motor carriers, Undercharges.

Dated: November 12, 1992.

By the Commission.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1321 is amended as follows:

PART 1321—NONOPERATING MOTOR CARRIERS—COLLECTION OF UNDERCHARGES

1. The authority citation for part 1321 continues to read as follows:

Authority: 49 U.S.C. 10101, 10102, 10321, 10521, 10701, 10702, 10704, 10741, 10743, 10761, 10762, 10764, 10921, 10923, 11144, 11901, 11903, 11904, 11906; 5 U.S.C. 553.

§§ 1321.1, 1321.5 [Amended]

2. In the fifth sentence of § 1321.1 and the introductory text of § 1321.5, the date "September 23, 1992" is revised to read "October 8, 1992".

[FR Doc. 92-27831 Filed 11-16-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 920246-2270]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final initial specifications for the 1992 Atlantic mackerel fishery.

SUMMARY: NMFS issues these final initial specifications for the 1992 fishing year for Atlantic mackerel. Regulations governing this fishery require the Secretary of Commerce (Secretary) to publish specifications for the current fishing year This action is intended to fulfill this requirement and to promote the development of the U.S. Atlantic Mackerel fishery.

EFFECTIVE DATE: November 16, 1992.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's "quota paper" and recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Copies of the environmental assessment prepared by the Northeast Regional Office for this action are available from Richard B. Roe, Regional Director, Northeast Region, NMFS, 1 Blackburn Circle, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508-281-9104 or Richard Seamans, 508-281-9244.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council), appear at 50 CFR part 655. These regulations stipulate that the Secretary will publish a notice specifying the initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Procedures for determining the initial annual amounts are found in § 655.21. The proposed specifications for the 1992 Atlantic Mackerel, Squid, and Butterfish Fisheries were published on February 27, 1992 (57 FR 6699).

The following table contains the final initial specifications for Atlantic mackerel. These specifications are based on the recommendations of the Council, the environmental assessment prepared for this action, and public comment.

TABLE.—INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL JANUARY 1 THROUGH DECEMBER 31, 1992

[In metric tons (mt)]

Max OY	[1] N/A
ABC	850,000
IOY [2]	95,000
DAH	[3] 95,000
DAP	55,000
JVP	26,000
TALFF	0

[1] Not applicable; see the FMP.
[2] IOY can rise but not exceed 200,000 mt.
[3] Contains 14,000 mt. projected recreational catch based on the formula contained in the regulations (50 CFR part 655).

The Director, Northeast Region, NMFS, (Regional Director), also imposes four special conditions for the 1992 Atlantic mackerel fishery as follows:

(1) Joint ventures are allowed, but river herring bycatch south of 37°30' N. latitude may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel;

(2) The Regional Director will monitor fishing operations and manage harvest to reduce impacts on marine mammals in prosecuting the Atlantic mackerel fisheries;

(3) IOY may be increased during the year, but the total will not exceed 200,000 mt; and

(4) Applications from a particular nation for joint ventures for 1992 will not be approved until the Regional Director determines, based on an evaluation of performances, that the nation's purchase obligations for 1991 and previous years have been fulfilled.

Comments and Responses

Six sets of comments on the proposed specifications were received. One was an ex-parte communication from the Agricultural and Emigration Counselor of the Royal Netherlands Embassy. All commenters addressed the proposed zero TALFF specification for Atlantic mackerel; four of the commenters opposed this proposed specification, while one commenter supported it.

One commenter opposed the 3,000 MT specification for JVP in the *Illex* squid fishery. Comments on the proposed *Illex* squid JVP specifications are addressed in a separate notice dated July 24, 1992.

(57 FR 32923) that includes the final specifications for *Illex* and *Loligo* squid and butterfish.

Comment: Zero TALFF for Atlantic mackerel means that a joint venture does not have the possibility to average its lower cost of direct fishing poundage fees with prices for over-the-side and/or shore side purchases. To be economically competitive, a venture must, therefore, pay a much lower price to U.S. fishermen.

Response: In recent years several joint ventures and Internal Waters Processing operations (IWPs) for Atlantic mackerel have been applied for and successfully executed without TALFF. Prices have been competitive with those offered by foreign participants who have also been granted TALFF.

Comment: Foreign vessels on the fishing grounds assist U.S. fishermen with locating mackerel schools and should be encouraged.

Response: U.S. fishermen now have the technological capability and expertise to locate schools without foreign assistance.

Comment: Biologically, mackerel need to be harvested to allow higher value species to rebuild.

Response: To the best of our knowledge, there have been no published studies to defend this hypothesis. Alternatively, one could argue that many species of fish and marine mammals that prey on Atlantic mackerel have benefitted from large stocks, i.e., whales, striped bass, and bluefish.

Comment: Foreign markets need our Atlantic mackerel and will buy it only if our prices and quality are competitive.

Response: NMFS recognizes that Atlantic mackerel may provide a relatively inexpensive protein source for many countries. However, while these countries may want or desire U.S.-harvested mackerel, there is no evidence that a need exists, especially given the large amount of protein substitutes available at lower prices. It is also noted that there is currently a large surplus of Atlantic mackerel on the market from the United Kingdom and other parts of Europe.

Comment: Zero TALFF largely underestimates current fishing possibilities which could be allocated by applying the U.S. overfishing definition. Given the estimated large spawning stock biomass and associated large ABC at 850,000 MT, it follows that the initial annual yield can rise to this amount. Foreign fishermen should be allocated this surplus since substantial arguments for nonallocation have not been supplied.

Response: NMFS recognizes that the estimated stock could support a much larger Atlantic mackerel fishery than these specifications allow without a detrimental biological or ecological effect. However, the IOY represents a modification of ABC based on economic factors and is intended to provide the greatest overall benefit to the nation. The intent of the IOY is to foster the development of the U.S. mackerel fishery.

Comment: We are disappointed by the statement that a continuation of TALFF would impede the continued growth of the U.S. fishery. The main effect of economic and political restructuring in Eastern Europe in the fisheries sector has been a reduction in the consumption of fish such as herring and mackerel. Consequently, market prices have been put under pressure. Over-the-side sales carried out in connection with foreign fishing would, therefore, allow the U.S. to export additional quantities.

Response: The statement regarding the effects of TALFF on the growth of the U.S. industry is taken directly from the testimony of members of the U.S. industry before the Council. It has been considered in the analysis of the effects of a zero TALFF. NMFS will be carefully monitoring the progress of the industry during the 1992 fishing year and will use this information in evaluating specifications proposed for the 1993 fishery and beyond.

Comment: The quantity of over-the-side purchases by European Economic Community (EC) fishermen is not intended for the Japanese market but rather for markets where the United States has no traditional exports.

Response: NMFS recognizes the practical difference between intentions and actions. It is not likely that the member states of the EC would forego competing in the lucrative Japanese market if conditions were favorable. Furthermore, if the U.S. industry develops to a point where it becomes cost-effective to compete in nontraditional markets, it will take advantage of this position.

Comment: Limiting foreign access to Atlantic mackerel would set a bad precedent under international law.

Response: The Magnuson Fishery Conservation and Management Act (Magnuson Act) invests the specification setting process with a great deal of discretion. NMFS believes that these final specifications are consistent with the Magnuson Act and will produce the greatest overall benefit to the Nation.

Comment: The real obstacle to market development is potential foreign competition from a TALFF allocation. The Netherlands fishing industry (the Dutch) are the most likely recipients of a mackerel TALFF. Such mackerel would be offered by the Dutch in the foreign markets that our industry is trying to develop—Jamaica, Japan, Eastern Europe, north and west Africa, and the Middle East. The commenter believes that it is critical to eliminate TALFF in order to stimulate the markets for U.S. harvested and processed product abroad.

Response: Comment noted.

Comment: NMFS has a substantial body of data that demonstrates the nexus between the elimination of TALFF and the dramatic growth in JVPs in other regions of the country. The Council was correct in assuming that further growth in joint ventures would occur even after the elimination of TALFF. The Council feels strongly that both the harvesting and processing industry would benefit from the elimination of TALFF because it would result in the growth of both the DAP and the JVP over time. TALFF no longer provides benefits to the Nation because it is not necessary to sustain the DAP and JVP production. TALFF instead acts as a severe damper on the ability of domestic processors and harvesters to expand direct and joint venture markets.

Response: While NMFS realizes that comparisons between different regions and alternative species are difficult to analyze, we believe that the concerns regarding TALFF that are voiced by members of the industry are addressed by this action.

Classification

This action is authorized by 50 CFR part 655 and complies with Executive Order 12291 and the National Environmental Policy Act.

16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: November 10, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-27764 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 222
Tuesday, November 17, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chapters I–III

23 CFR Chapters I–III

33 CFR Chapters I and IV

46 CFR Chapters I–III

48 CFR Chapter 12

49 CFR Subtitle A and Chapters I–VI

[Notice 92-23]

Regulatory Review

AGENCY: Department of Transportation.

ACTION: Notice of public availability.

SUMMARY: In response to the President's announcement of a federal regulatory review, the Department solicited public comments on which Departmental regulations substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, or impose needless costs or red tape. The Office of the Secretary and each affected modal administration summarized the comments and has briefly noted what, if any, action will be taken in response to the comments. Those summaries are now available for public review in the relevant modal docket office. Copies of all the summaries are available in the Office of the Secretary, Documentary Services Division.

DATES: The summaries are available on November 17, 1992.

ADDRESSES: The address of the docket sections and the relevant docket numbers are as follows:

Federal Aviation Administration, Rules Docket (AGC–10), Docket No. 26768, Office of Chief Counsel, 800 Independence Avenue, SW., room 915G, Washington, DC 20591.

Federal Highway Administration, Docket Room, Docket 92–12, 400 7th Street, SW., room 4232, Washington, DC 20590.

Federal Railroad Administration, Docket Clerk, Docket RSS 1–92–1, 400 Seventh Street, SW., room 8201, Washington, DC 20590.

Federal Transit Administration, Docket Clerk, Docket 92A, 400 Seventh Street, SW., room 9316, Washington, DC 20590.

Maritime Administration, Docket Clerk, Docket R–141, 400 Seventh Street, SW., room 7300, Washington, DC 20590.

National Highway Traffic Safety Administration, Docket Clerk, Docket 92–04, Notice 1, 400 Seventh Street, SW., room 5109, Washington, DC 20590.

Office of the Secretary, U.S. Department of Transportation, Documentary Services Division, Docket Section, Docket 47978, 400 Seventh Street, SW., room 4107, Washington, DC 20590.

Research and Special Programs Administration, Docket Branch, Docket RR–1, 400 Seventh Street, SW., room 8421, Washington, DC 20590.

United States Coast Guard, Marine Safety Council, Docket 92–005, 2100 Second Street, SW., room 3406, Washington DC 20593.

FOR FURTHER INFORMATION CONTACT: Neil R. Eisner, Assistant General Counsel, Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–4723.

SUPPLEMENTARY INFORMATION: In the State of the Union address of January 28, 1992, President Bush announced a 90-day moratorium and review of regulations. In a memorandum to certain Department and agency heads that discussed the initiative in more detail, the President noted. "[a] major part of this undertaking must be to weed out unnecessary and burdensome government regulations, which impose needless costs on consumers and substantially impede economic growth." The President ordered the Department to work with the public, other interested agencies, the Office of Information and Regulatory Affairs, and the Council on Competitiveness to (i) identify each of the agency's regulations and programs that impose a substantial cost on the economy and (ii) determine whether each such regulation or program adheres to the articulated standards.

On February 7, 1992, the Department of Transportation (DOT) published a notice in the **Federal Register** inviting public comment on its regulations and programs (57 FR 44744). The comment period closed on February 28, 1992.

Over 320 public comments were filed. The comments were carefully considered and incorporated into the recommendations contained in the Department's April 1992 Reports to the White House. In order to help commenters identify what, if any, action has or will be taken in response to their comments, the comments and agency response have been briefly summarized. The summaries relating to each mode are now available for public review in each docket section. For the convenience of commenters with an interest in more than one mode of transportation, a copy of all the summaries are available in the Office of the Secretary's Documentary Services Division.

Issued in Washington, DC, on November 5, 1992.

Walter B. McCormick, Jr.,

General Counsel.

[FR Doc. 92-27621 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

14 CFR Part 35

[Docket No. 92-ANE-47; Notice No. SC-92-03-NE]

14 CFR Part 35

Special Conditions; Hartzell Propeller, Inc., Model HD-E6C-3( )/E13482K Dual Acting Propeller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This document proposes special conditions for the Hartzell Propeller, Inc., Model HD–E6C–3( )/E13482K Dual Acting Propeller, installed on Dornier DO–328 aircraft. This propeller uses a dual acting pitch control system and has propeller blades constructed using composite material. These design features are novel and unusual. Part 35 of the Federal Aviation Regulations (FAR's) currently does not address the airworthiness

considerations associated with dual acting pitch control systems or propellers constructed using composite blades. This notice proposes additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 35 of the FAR's.

DATES: Comments must be received on or before December 17, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–47, 12 New England Executive Park, Burlington, Massachusetts 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5229; (617) 273–7079; fax (617) 270–2412.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the establishment of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified "**ADDRESSES.**" All communications received on or before the closing date for comments, specified under "**DATES,**" will be considered before taking action on the proposed special conditions. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed special conditions. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92–ANE–47." The postcard will be date stamped and returned to the commenter.

Availability of Notice of Special Condition

Any person may obtain a copy of this Notice of Special Condition by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–ANE–47, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

Discussion

Background

On October 26, 1989, Hartzell Propeller, Inc., applied for type certification for Model HD–E6C–3( )/E13482K propeller. This propeller uses a dual acting pitch control system and has propeller blades constructed using composite material. These design features are novel and unusual. Part 35 of the Federal Aviation Regulations (FAR's) does not provide airworthiness standards for propellers using a dual acting pitch control system or composite blades.

Type Certification Basis

Under the provisions of § 21.17 of the FAR's Hartzell Propeller, Inc., must show that the Model HD–E6C–3( )/E13482K propeller meets the requirements of the applicable regulations in effect on the date of the application. Those FAR's are § 21.21 and part 35, effective February 1, 1965, as amended.

The Administrator finds that the applicable airworthiness regulations in part 35, as amended, do not contain adequate or appropriate safety standards for the Model HD–E6C–3( )/E13482K propeller. Therefore, the Administrator proposes these special conditions under the provisions of § 21.16 of the FAR's to establish a level of safety equivalent to that established in part 35.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR's after public notice and opportunity for comment, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Novel or Unusual Design Features

The Hartzell Propeller Model HD–E6C–3( )/E13482K propeller uses a dual acting pitch control system with hydraulic components and a pitchlock. This dual acting system can be susceptible to failures and when followed by improper commands may result in, for example, rapid increase in propeller RPM, extremely high disk drag, or high asymetric disk drag. Rapid increases in propeller RPM at high airspeeds can result in massive propeller overspeeds. Extremely high disk drag or high asymetric disk drag can result in rapid slowing of the aircraft below the speed necessary for flight, especially on wing mounted turbo-propeller aircraft.

Dual acting pitch control systems must therefore demonstrate structural integrity of all mechanical and hydraulic components, maintain hydraulic capacity at all times, and demonstrate pitchlock system integrity.

This model propeller also uses blades of composite materials having additional airworthiness considerations not currently addressed by part 35 of the FAR's. Those additional airworthiness considerations associated with propellers constructed using composite material are propeller integrity following a bird strike, propeller integrity following a lightning strike, and propeller fatigue strength when exposed to the deteriorating effects of in-service use and the environment. Composite material has fibers that are woven or aligned in specific directions to give the material directional strength properties. These properties depend on the type of fiber, the orientation and concentration of fiber, and the matrix material. Composite materials can exhibit multiple modes of failure. Propellers constructed of composite material must demonstrate continued airworthiness when considering these novel design features not associated with propeller blades constructed using other materials.

The requirements of part 35 of the FAR's were established to address the airworthiness considerations associated with wood and metal propellers used primarily on reciprocating engines. Propeller blades of those types are generally thicker than composite blades and have demonstrated good service experience following a bird strike. Propeller blades constructed using composite material are generally thinner when used on turbine engines, and are typically installed on high performance aircraft. Further, high performance aircraft generally fly at high airspeeds with correspondingly high impact forces associated with a bird strike. Thus, composite propellers must demonstrate propeller integrity following a bird strike.

In addition, part 35 of the FAR's does not currently require a demonstration of propeller integrity following a lightning strike. No safety considerations arise

from lightning strikes on propeller blades constructed of metal because the electrical current is safely conducted through the metal blade without damage to the propeller. Fixed-pitch, wooden propellers are generally used on engines installed on small, general aviation aircraft that typically do not encounter flying conditions conducive to lightning strikes. Composite propeller blades, however, may be used on turbine engines and high performance aircraft which have an increased risk of lightning strikes. Composite blades may not safely conduct or dissipate the electrical current from a lightning strike. Severe damage can result if the propellers are not properly protected. Therefore, composite propeller blades must demonstrate propeller integrity following a lightning strike. Information on testing for lightning protection is contained in SAE Report AE4L, entitled, "Lightning Test Waveforms and Techniques for Aerospace Vehicles and Hardware," dated June 20, 1978.

Lastly, the current certification requirements address fatigue evaluation only of metal propeller blades or hubs and those metal components of non-metallic blade assemblies. Allowable design stress limits for composite blades must consider the deteriorating effects of the environment and in-service use, particularly those effects from temperature and erosion. Composite blades also present new and different considerations for retention of the blades in the propeller hub.

Conclusion

This action affects only the Hartzell Propeller, Inc., Model HD-E6C-3( )/E13482K Dual Acting Propeller, installed on Dornier DO-328 aircraft. It is not a rule of general application, and it affects only the manufacturer who applied to the FAA for approval of this propeller model.

List of Subjects in 14 CFR Part 35

Air Transportation, Aircraft, Aviation safety, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. App. 1354(a), 1421, 1423; 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator the following special conditions are issued as part of the type certification basis for the Hartzell Propeller, Inc., HD-E6C-3( )/E13482K Dual Acting Propeller installed on Dornier DO-328 airplanes:

(a) Propeller Pitch Control System—Variable Pitch Propellers Strength, Deformation, and Fatigue Evaluation

(1) The control system must be able to support limit loads without detrimental permanent deformation. At any load up to limit load through Vne, the control system deformation may not interfere with safe operation. The control system must support ultimate loads without failure.

(2) Each component of the control system whose structural failure can cause loss of propeller pitch control must be fatigue evaluated for the defined loading spectra expected in service. Environmental effects and service deterioration must be included. Each established mandatory replacement time and inspection interval must be included in the Airworthiness Limitations Section of the Instructions for Continued Airworthiness as required by FAR 35.4.

(b) Propeller Pitch Control

(1) The auxiliary feathering pump unit shall maintain feathering capability up to maximum propeller overspeed, or 141% overspeed limitation and an airspeed limitation of Vmo, for the intended aircraft installation, that can be attained in service with the propeller overspeed protection system inoperative.

(2) A failure in the propeller pitch control system or an inadvertent command toward fine blade pitch shall not result in overspeeding the propeller such that the capacity of the overspeed protection system is exceeded. This is to be demonstrated for propeller loadings up to Vmo of the intended aircraft installation.

(3) It must be shown that the propeller pitch control system has the hydraulic capacity, with sufficient margin, to control propeller pitch for all normal category operating conditions.

(c) Hydraulic Systems Tests

All components that must withstand hydraulic pressure and whose structural failure or leakage could cause loss or deterioration of propeller control, must be tested as follows:

(1) Show that the components can withstand a pressure of 1.5 times the design operating pressure without deformation that would prevent them from performing their intended functions.

(2) Burst pressure test 2.0 times the maximum operating pressures.

(3) Fatigue tests and evaluation to demonstrate that the components can withstand the number of cyclic pressures (defined loading spectra) expected in service. Each established mandatory replacement time and inspection interval must be included in the Airworthiness Limitation Section of the Instructions for Continued Airworthiness as required by FAR 35.4.

(d) Pitchlock

A pitchlock system must maintain a fixed position and its structural integrity under all expected conditions of applied loading and vibration frequencies. The pitchlock system can not interfere with the normal pitch control system operation.

(e) Hydraulic Pump—Warning Light/Indicator

A provision must be available to install a warning light/indicator to show when the hydraulic pump pressure is at its lowest acceptable level. It shall indicate when a maintenance check of the system is required.

(f) Fatigue Evaluation for Composite Propeller Blades

The procedures for the fatigue evaluation must be approved (a fatigue Methodology Report is required for approval).

(g) Propeller Hub to Shaft Connection

Verifty that the deflections of the propeller shaft and its connecting flange are such that unacceptable axial loads are not applied to the hub to shaft connection.

(h) Failure Analysis

(1) A failure mode and effects analysis of the propeller and its control system shall be carried out in order to assess all failures that can be reasonably expected to occur.

(2) Catastrophic failure conditions must be extremely improbable. No identified single failure or combination of failures (likely combinations including dormant failures) shall have a probability of greater than 10 to the minus 9th power per propeller hour that can result in a catastrophic failure. Catastrophic failure conditions are those which would prevent continued safe flight and landing.

(i) Bird Strike

The propeller can withstand a 4 pound bird strike at its critical radial location when rotating at takeoff RPM and liftoff speed of a representative aircraft, without giving rise to the following hazardous conditions while maintaining the capability to be feathered:

(1) Loss of propeller, a blade, or a major portion thereof;

(2) Propeller overspeed; or

(3) Unintended movement of the blades to an angle that would cause excessive drag or that is below the established minimum inflight blade angle.

(j) Lightning Strike—Propeller

A lightning strike on a propeller shall not result in the following hazardous conditions and the propeller must be capable of continued operation:

(1) Loss of propeller, a blade, or a major portion thereof,

(2) Propeller overspeed, or

(3) Losing the capability to be feathered,

(4) Unintended movement of the blades to an angle that would cause excessive drag or that is below the established minimum inflight blade angle.

(k) Lightning Strike—Propeller Control System

(1) Multiple stroke and multiple burst testing must be conducted on the propeller control system and demonstrate no adverse effects on the control system performance or resultant damage.

(2) All the electro-mechanical components of the propeller system shall be Pin-Injected tested to appropriate wave forms and levels with no resultant damage.

(l) High Energy Radio Frequencies (HERF) Protection—Propeller System

HERF susceptibility tests are to be conducted on the propeller control system with no adverse effects on control system performance.

Issued in Burlington, Massachusetts, on October 26, 1992.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92-27590 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-202-AD]

Airworthiness Directives; General Dynamics Convair Model 340, 440, and C-131B Through C-131H (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes. This proposal would require an inspection to determine the sizing and condition of the holes in the lugs of the fuselage and stabilizer fittings, and rework, if necessary. This proposal would also require a hardness test of the horizontal and vertical stabilizer taper pins and split sleeve bushings, and replacement, if necessary. This proposal is prompted by reports of several loose stabilizer pins and split sleeve attachments. The actions specified by the proposed AD are intended to prevent failure of the stabilizer attachment fittings, and potential subsequent loss of a horizontal or vertical stabilizer.

DATES: Comments must be received by January 13, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-202-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from General Dynamics, Convair Division, Lindberg Field Plant, P.O. Box 85377, San Diego, California 92138, Attention: Ladd Mastny. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Brent Bandley, Aerospace Engineer, Airframe Branch, ANM-123L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5237; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-202-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-202-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Several operators have reported finding looseness in the stabilizer pin and split sleeve attachments on certain General Dynamics Convair series airplanes. The attachment consists of split sleeves and taper pins which, when drawn up by the taper pin nuts, expand the sleeves into the mating fittings to provide a rigid joint. In addition, split sleeves on both the vertical and horizontal stabilizers have been found that were in a "soft" condition (never heat-treated), and pins have been found that were replated after wear or corrosion damage has been removed. Subsequent investigation revealed significant wear on the outer surface of the "soft" split sleeves, which resulted in looseness of the joint. These conditions, if not corrected, could result in failure of the stabilizer attachment fittings, which could lead to loss of the horizontal or vertical stabilizers.

The FAA has reviewed and approved General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55-6, dated September 1, 1992, that describes procedures for inspection of the holes in the lugs of the fuselage and stabilizer fittings to determine the sizing and condition, and rework of the fitting holes. This service bulletin also describes procedures for removal and replacement of the vertical and horizontal stabilizers, and replacement of the pins and split sleeves.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection to determine the sizing and condition of the holes in the lugs of the fuselage and stabilizer fittings, and rework, if necessary. These actions would be required to be accomplished in accordance with the service bulletin described previously.

Affected operators should note that repetitive inspections of the subject area of the horizontal stabilizers are currently required in accordance with AD 82-19-02, Amendment 39-4458 (47 FR 39133, September 7, 1982). Additionally, repetitive inspections of the subject area on the vertical stabilizer are currently required in accordance with AD 92-06-06, Amendment 39-8186 (57 FR 9382, March 18, 1992).

This proposed AD would also require that a hardness test be conducted of the horizontal and vertical stabilizer taper pins and split sleeve bushings. The test may be conducted in accordance with normal maintenance procedures.

There are approximately 320 General Dynamics Convair Model 340, 440, and C-131B through C-131H (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 240 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 34 work hours per

airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $448,800, or $1,870 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Dynamics: Docket 92-NM-202-AD.

Applicability: Model 340, 440, and C-131B through C-131H (military) series airplanes, all serial numbers, certificated in any category, including those modified for turbo-propeller power.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the stabilizer attachment fittings and potential subsequent loss of a horizontal or vertical stabilizer, accomplish the following:

(a) Within 12 months or 1,500 flight hours after the effective date of this AD, whichever occurs first, accomplish paragraphs (a)(1) and (a)(2) of this AD:

(1) Remove both horizontal stabilizers and the vertical stabilizer, and inspect the fitting holes to determine the sizing and condition, in accordance with General Dynamics, Convair Division, Service Bulletin 640(340D) S.B. No. 55-6, dated September 1, 1992. If the fitting holes are not within the tolerance limitations specified in the Convair 440 Structural Repair Manual, prior to further flight, bush the fittings in accordance with the repair manual.

(2) Perform a hardness test of the horizontal and vertical stabilizer taper pins and split sleeve bushings in accordance with normal maintenance procedures. The equivalent strength values for the pins and bushings based on the hardness test must be between 160-180 ksi.

(i) If the pins or bushings have a lower strength value than 160 ksi, if they are worn into the parent metal, if they show signs of corrosion, or if they have been ground and replated, prior to further flight, remove the discrepant part(s) and replace it with a new FAA-approved part(s). Reworked parts are not acceptable for use as replacement parts.

(ii) Prior to installing any FAA-approved new taper pin or split sleeve bushing on the airplane, perform a hardness test on the part(s) and ensure that the equivalent strength value is between 160 and 180 ksi. Parts having a strength value lower than 160 ksi shall not be installed.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 10, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-27775 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 163

[Docket No. 86P-0297]

Cacao Products; Amendment of the Standards of Identity; Issues for Future Rulemaking; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 180 days the period for submitting comments on issues pertaining to the U.S. standards of identity for certain cacao products. FDA is reopening the comment period for these issues in response to several requests for extension of the comment period.

DATES: Written comments by May 17, 1993.

ADDRESSES: Written comments may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5106.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1992 (57 FR 23989), FDA published a tentative final rule to amend the standards of identity for cacao products in 21 CFR part 163. That action was taken principally in response to a citizen petition submitted by the Chocolate Manufacturers Association of the United States of America (CMA) and to comments received in response to a proposed rule that published in the **Federal Register** of January 25, 1989 (54 FR 3615).

During the extended period of time following the proposed rule, several issues were raised (e.g., whether to revise the cacao standards to achieve consistency with proposed definitions for nutrient content claims) that were outside the scope of the original proposal. Therefore, FDA divided the June 5, 1992, tentative final rule into two sections; section II.A., which the agency identified as a tentative final rule, and section II.B., which presented issues for future rulemaking. Issues for future rulemaking included: (1) Whether to

provide for the use of any safe and suitable sweeteners in cacao products rather than limiting the use of sweeteners to nutritive carbohydrate sweeteners; (2) whether to retain the provisions that prohibit the use of flavors that imitate the flavor of chocolate, milk, or butter in cacao products; (3) whether to provide for additional products in the standards for coatings made with vegetable fat; (4) the need for a separate standard for frozen dessert coatings; (5) the need to maintain standards for coatings made with vegetable fat; and (6) whether to revise the standards for breakfast cocoa, cocoa, and lowfat cocoa to achieve consistency with proposed definitions for nutrient content claims. The agency also suggested that a manufacturer submit a citizen petition to establish a standard of identity for "white chocolate."

The agency announced that it intended to issue a final rule on section II.A. of the June 5, 1992, tentative final rule as expeditiously as possible. The comment period for section II.A. closed on July 6, 1992. FDA did not receive any requests to extend the comment period for this section. The agency also announced that, because the issues in section II.B. of the June 5, 1992, tentative final rule are outside the scope of the original proposal, it is not prepared to move on them as quickly as it will move on the issues in section II.A. The comment period for section II.B. closed August 4, 1992. The agency has received a request from the CMA and the National Confectioners Association of the United States for a 180-day extension of the comment period for section II.B. The International Ice Cream Association (IICA) requested an extension of 120 days for section II.B.

The requests stated that the issues raised in section II.B. involve products and issues integral to the industry. They maintained that an extension is necessary for their membership to fully evaluate the issues, discuss alternatives, and prepare well reasoned comments. IICA stated that its membership is especially concerned with a number of issues regarding the proposed standards for coatings made with vegetable fat.

In its request for an extension, CMA maintained that some of the issues presented in section II.B., such as those involving lowfat cocoa, must be evaluated in light of the final rules implementing the Nutrition Labeling and Education Act of 1990 (the 1990 amendments) that are to publish in the Federal Register in November 1992. CMA further maintained that extending the comment period by 180 days for issues in section II.B. would not delay any specific FDA rulemaking.

Given the number and complexity of the issues in section II.B., FDA considers it reasonable and appropriate to reopen the comment period to provide additional time for submission of comments that are informative and represent the positions of all interested parties. The agency also agrees that it is necessary to evaluate some of these issues, such as changes to the standard for lowfat cocoa, in light of the final rules implementing the 1990 amendments.

The agency also notes that some issues in section II.B. (e.g., providing for the use of safe and suitable sweeteners in standardized cacao products and the need to maintain standards for coatings made with vegetable fat) may be affected by the final rule on the issues in section II.A. Although FDA intends to issue a final rule on section II.A. as expeditiously as possible, any agency action on the issues in II.B. will be the subject of future rulemaking. Therefore, reopening the comment period for section II.B. for an additional 180 days would not delay any specific rulemaking. The agency anticipates that reopening the comment period for 180 days will allow sufficient time for all interested persons to evaluate the issues in section II.B. in light of the final rules implementing the 1990 amendments. The agency also anticipates that the final rule for section II.A. of the June 5, 1992, rulemaking will publish within this 180-day period. Therefore, the agency is reopening the comment period for section II.B. for 180 days as requested by CMA.

Interested persons may, on or before May 17, 1993, submit to the Dockets Management Branch (address above) written comments regarding the issues raised in section II.B. of the June 5, 1992, tentative final rule to amend the standards of identity for cacao products. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 4, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-27791 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 965

[Docket No. R-92-1609; FR-3023-P-01]

RIN 2577-AB00

Financial Standards for Housing Authority-Owned Insurance Entities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: The HUD Appropriations Act for Fiscal Year 1992 directed the Department to issue regulations establishing standards for approval of nonprofit insurance entities owned and controlled by Public Housing Agencies or Indian Housing Authorities. This proposed rule would establish these standards.

DATES: Comments must be submitted by January 19, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500.

Comments should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: John Comerford, Director, Financial Management Division, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1872. A telecommunications device for hearing or speech-impaired persons is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). The reporting burden for these insurance entities under this rule would be no

greater than the burden currently required under the Risk Retention Act.

Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in paragraph V.H. of this Preamble. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, at the address stated above; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

II. Background

Under their contracts with HUD, Public Housing Agencies and Indian Housing Authorities (collectively, housing authorities or HAs) must carry certain types of insurance provided by a "financially sound and responsible insurance company." Now housing authorities are obtaining insurance coverage from entities that they combine to create and operate, which are not traditional insurance companies. Congress has directed HUD to approve these entities before accepting coverage from them as satisfactory under the contractual requirement.

A. Proposed Rule

A proposed rule was published on December 19, 1989 (54 FR 52000), which, in addition to provisions implementing statutorily required changes in the method of calculating operating subsidy, included provisions concerning competitive selection of insurance coverage and the criteria to be satisfied by an insurer seeking to provide coverage to HAs. This rule is being issued as another proposed rule, instead of as a final rule based on comments received, because in the intervening period, the HUD Appropriations Acts for 1991 and 1992 have addressed the subject of noncompetitive selection of a nonprofit insurance entity owned and controlled by HAs. This rule attempts to implement the 1992 Appropriations Act, while considering the public comments received on the prior proposal.

Since the publication of the proposed rule, a separate comprehensive rule (part 905) was issued governing Indian Housing Authorities, which includes provisions comparable to those included in part 965, the regulation proposed to be amended in the previous rule. Therefore, this rule includes proposed changes to part 905, which correspond to the changes proposed to part 965.

B. Appropriations Acts

The HUD Appropriations Act for Fiscal Year 1992, Public Law 102–139, 105 Stat. 736 (approved October 28, 1991) ("1992 Act"), included four express provisions concerning selection of insurance by HAs after October 28, 1991:

1. Insurance may be purchased from a nonprofit insurance entity that is owned and controlled by HAs and approved by HUD without regard to competitive selection procedures.

2. HUD must issue regulations establishing standards for approval of such nonprofit insurance entities to assure that they have "sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry." Investment restrictions must not exceed State laws regulating the investments of insurance companies. (Nonprofit insurance entities that are licensed insurance companies simply comply with applicable State law.)

3. These regulations must be issued in accordance with notice and comment rulemaking, in accordance with Administrative Procedure Act, and they must become effective no later than October 28, 1992.

4. HUD may not approve any additional nonprofit insurance entities until the regulations have become effective, and HUD may not revoke approval of any nonprofit insurance entity unless for cause following due process hearing.

[The previous year's appropriations act also addressed the insurance issue, permitting insurance coverage to be purchased from these nonprofit HA-controlled insurance entities (hereafter called "insurance pools"] without competitive selection procedures, requiring HUD to establish standards for approving such entities, and prohibiting HUD from imposing unduly burdensome investment restrictions. It differed from the 1992 Act in that it did not require the issuance of regulations and it did not prohibit the approval of any new insurance pools.]

In accordance with the fourth provision of the 1992 Act, the Department is not approving new pools. This provision points out the possibility—not addressed in the previous proposed rule—that an insurance pool might fall below the approval standards at some point after its initial approval by HUD. Recognizing that possibility, this proposed rule adds a section permitting HUD to revoke approval of an insurance pool for cause after providing a due process hearing.

The effect of the first and second provisions of the 1992 Act on this rule is to require the Department to change two requirements proposed in the previous rule. The provision that required procurement of insurance to be subject to competitive selection procedures, even when it is being obtained from an insurance pool, has been abandoned. The provision that required pools to invest only in HUD-approved investments, as described in HUD Handbook 7475.1, has been changed to defer to standards applicable to licensed insurance companies in the State of incorporation.

The changes in this proposed rule from the previous proposed rule that are in response to public comments are described in more detail in Section III below.

C. Risk Retention Act

In 1986 Congress responded to the problem of unavailability and high cost of insurance for PHAs/IHSs by enabling the development of an alternative to a conventional insurance company. It enacted amendments to an existing law providing for risk retention groups covering product liability to authorize governmental entities, such as PHAs/IHAs, to form such groups to cover their liabilities.

This enactment, entitled the Risk Retention Amendments of 1986 (hereafter, "the Act," which is codified at 15 U.S.C. 3901–3906), authorized risk retention groups and purchasing groups of members with similar businesses or activities with similar or related liability exposure to provide or purchase liability coverage for its members without being subject to most State laws concerning licensed insurance companies. This paved the way for the development of the nonprofit PHA/IHA insurance entities to provide insurance.

The Act does require (at 15 U.S.C. 3904(a)(4)(C)) that risk retention groups be "chartered or licensed as a liability insurance company under the laws of a State and authorized to engage in the business of insurance under the laws of such State." The Act requires that before any risk retention group can offer insurance, it must submit to the insurance commissioner of the State in which it is chartered a feasibility study or operations plan.

Once it is operational, a risk retention group must submit, to the insurance commissioner of the State in which it is

chartered, its annual financial statement, certified by an independent public accountant, and a statement of opinion on loss and loss adjustment expense reserves made by an actuary. When a risk retention group seeks to offer insurance in another State, it must submit copies of these documents to the insurance commissioner of that State. This rule would provide that copies of these documents be furnished to HUD.

Some financial oversight of risk retention groups is permitted by the chartering State, or a State in which it does business if the chartering State does not do so. A State is free to seek injunctive action from a court if it determines that a group is in "hazardous financial condition" or is "financially impaired."

Similarly, a purchasing group must file a notice of intention to do business in a State with the State's insurance commissioner, indicating the State of its domicile, the lines of insurance it intends to purchase, the insurance company from which it intends to purchase and that company's domicile, and the group's principal place of business.

In its implementation of the Appropriations Act provisions concerning the ability of a HA to purchase insurance from a HA-owned nonprofit insurance entity, this rule assumes that any such entity is a qualified "risk retention group" under the Act. Nevertheless, HUD has the authority—as described in the Appropriations Act—to specify financial and operational standards to be met by the group in order to qualify as an adequate source of insurance for a HA. That is the primary purpose of this rule.

III. Public Comments

Ninety-six of the 169 public comments received by HUD on the comprehensive proposed rule published in 1989 dealt primarily with the provisions relevant to this rule—insurance. Most of the commenters were HAs or insurance entities created by HAs, whose principal objection was that insurance coverage from a HA-created entity should not be subject to competitive selection procedures. The other major concern expressed was the adequacy of the standards for a financially sound and responsible insurance company. Both of these concerns were addressed by the Appropriations Acts—the first, in a manner responsive to the commenters, and the second, in a manner that gave discretion to HUD.

A. Competitive Selection

The previous proposed rule applied competitive selection procedures to selection of an insurance provider—even where the preferred source was a HA nonprofit insurance entity. The Appropriations Acts require that HAs have the choice to select such an insurance provider—approved by HUD—without the competitive selection process. Therefore, this proposed rule notes that the competitive selection process need not be used where the HA chooses an approved HA nonprofit insurance entity.

B. Insurance Providers Covered

The previous proposed rule prescribed criteria for approving licensed insurance companies, unlicensed insurance companies, municipal leagues and trusts, and HA pools. Very few comments were received concerning the insurance providers other than the HA pools. However, there were a few comments concerning additional providers that should have been covered.

Reinsurers were not covered in the previous rule, and one respondent stated that they should be. (It is not an uncommon practice for an insurer to cede a percentage of its liability to a reinsurer, who may, in turn, cede a percentage to another. If the liability is large enough, a number of reinsurers may be involved.) The previous rule was similarly silent on the subject of assigned risk pools, which are required to be used in some States for some types of coverage, such as workers compensation.

The Department has decided that its failure to regulate these providers—and its lack of effective regulation of licensed and unlicensed insurance companies—has not jeopardized the security of housing authorities. Consequently, HUD is limiting the scope of this rule to the HA pools, for which it is required by statute to establish standards. The standards described below apply only to HA pools, and any HA pool that is constituted as a State-licensed insurance company is not covered.

C. Standards of Responsibility

1. Adequacy of Capital/Surplus and Reserves

The appropriations acts require HUD to provide standards to assure that such entities have adequate surplus capital to meet reasonably expected losses. The Department believes this is the best measure of the ability of an insurer to cover losses.

Paragraph (b)(1)(i) of the previous proposed rule required that an insurance company have "adequate reserves for undischarged liabilities of all types—as evidenced by a minimum policyholders, surplus fund of $25 million, or 50 percent of the net annual premiums written, whichever is greater." One commenter stated that the $25 million/50 percent of premiums standard would be very difficult to satisfy, especially for larger insurance companies. The $25 million/50 percent criterion has been eliminated, since each insurance entity must provide the audited statement and actuarial review on adequacy of reserves. These statements will be more reliable measures of the adequacy of reserves for the risks covered.

2. Reliable Accounting Systems and Sound Actuarial Projections

The previous proposed rule required documentation of adequate reserves for undischarged liabilities. The Appropriations Act gave HUD full authority to act with respect to documentation of reserves, to assure financial security of the insurance provider.

The rule required "a current audited financial statement and an actuarial review of all prior incurred losses over a minimum period of four years and a four-year projection of anticipated income, loss payments, loss reserves, loss adjustment, and administrative expenses * * * *" The inclusion of the audit and actuarial review were not challenged by commenters. However, the Department did receive a number of comments on the financial standards to be applied by the auditor and on the losses to be considered by the actuary.

One commenter stated that the standards applicable for the auditor's determination of adequacy of reserves should be the "Financial Accounting Standards Board Rule 60 and the Statutory Insurance Accounting Practices in force in the State of the insurer's domicile (and, in the case of a local government risk sharing entity, then also in accordance with Government Accounting Standards Board Rule 10)." The Department has decided to require use of the conventional statement form recommended by the National Association of Insurance Commissioners, completed by an independent public accountant.

Two commenters recommended that the actuarial review required in this section should include incurred but unreported losses, which remain undischarged liabilities, and that the actuarial review be in the form of an unqualified opinion that all unpaid losses and loss adjustment expenses have been reserved, rendered by an Associate or Fellow of the American

Academy of Actuaries, the Casualty Actuary Society, or an otherwise qualified loss reserve specialist. The Department agrees with the respondent that the actuary must consider incurred but unreported claims, as well as all open claims. It also agrees that the actuary must be an independent property/casualty actuary who is an Associate or Fellow in a recognized actuarial professional organization.

More detail is provided in this rule concerning the scope of the actuary's review. Sections 905.190 and 965.205 now require that the actuarial opinion must include evaluation of the following matters:

—Adequacy of reserves for open and incurred but unreported claims;
—Efficiency of any Third Party Administrator;
—Timeliness of the claim payments;
—Effectiveness of the Risk Management Program;
—The adequacy of reinsurance coverage;

These reviews will be required to be performed biennially. Within 90 days after the effective date of the final rule, the entity must furnish HUD with a copy of this type of actuarial review in order to retain its status as an approved source of insurance coverage.

The time period considered by the actuary in analyzing losses was criticized as too long, especially considering that the pools are relatively new entities. The Department assumes that the combined loss data of the various HAs that plan to join the entity will be reviewed by the actuary.

3. Employees Experienced in the Insurance Industry

One respondent, who took issue with each of the criteria of a responsible insurance provider, advocated that the experience factor be required to be related to underwriting governmental risks. The Department sees no reason to so limit the field of experience of providers. This respondent also took issue with the level of executive experience gained as a "senior branch manager". Again, we believe the term is sufficiently clear and the type of experience valid. We adopted the suggestion of one commenter that the experience requirement of five years of operating the "same business" be changed to five years in the "insurance business", to be more general.

With respect to the qualifications of underwriting and management staff, one respondent wanted the rule to make it clear that the entity need not directly employ such staff, but might instead contract with a third party administrator (TPA) to provide these services, in which case the criteria apply to the TPA's staff. The rule has been clarified on this point.

4. Sound Investments

The subject of investments was also covered in the previous proposed rule. Licensed insurance companies were to follow the investment requirements of the States in which they are licensed. Unlicensed insurance companies and municipal pools were required by the rule to maintain sound investments, but without any specific standards. Insurance pools were required to maintain sound investments, in accordance with HUD investment management practice requirements for PHAs, found in Handbook 7475.1.

The 1992 Appropriations Act spoke on this subject, at 105 Stat. 758 and stated that: The Secretary shall not place restrictions on the investment of funds of any [nonprofit insurance entity owned and controlled by PHAs] that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

This discussion of the subject highlights the fact that a HA-owned insurance pool may also qualify under State law as a licensed insurance company. To the extent that it does so qualify, the insurance pool is clearly subject only to State law on the subject of investments if the State insurance department regulates investments.

Although the Department no longer is requiring insurance pools that do not qualify as licensed insurance companies to conform with the HUD handbook concerning investments, it does nonetheless want to prevent these pools from investing in "junk bonds". Some States do actually permit such "investments", but they do not rise to the level of what are considered by most States to be "admitted assets". Consequently, the Department is requiring that the investments of insurance pools qualify as an "admitted asset" under applicable State law in order to satisfy HUD investment requirements. In the case of an insurance pool established under Indian Tribal law, the pool would be required to comply with the insurance investment practices of the State in which the Tribe is located, including using the State's definition of an "admitted asset".

5. Miscellaneous

The provision requiring internal audit and cost controls over income and expenditures for HA pools was criticized as meaningless and unnecessary. The Department disagrees and the proposed rule retains this provision.

The organizational documentation to be submitted was criticized both as requiring too much (opinion of counsel adds to cost) and too little (Department of Insurance certificate of good standing should also be submitted). The opinion of counsel is helpful and not unduly expensive, since it is only a one-time requirement. The Department also considers that a review of the by-laws and business plan of a nonprofit HA insurance entity should be required, so these requirements have been retained. In light of the requirements of the Risk Retention Act, a requirement has been added that the charter as an insurance provider by a State insurance commissioner or Indian Tribal governing body be provided.

There was also an objection to the requirement that the use of all funds of a HA insurance pool must be confined to insurance-related expenditures. The respondent stated that expenditures for the prudent operation and maintenance of the company and the provision of adequate risk management services should be authorized. The Department agrees that these are appropriate expenditures but interprets the language of the proposed rule to permit them as "insurance-related expenditures."

One commenter recommended that HUD should limit the extent to which a risk protection provider can assess participants for losses, indicating that permitting assessability decreases the actual amount of underwriting that is done. HUD has determined that it will not impose a limit on assessments. Such a policy would be very difficult to enforce, and HAs know of the risk that they will be assessed for unexpected losses, so they can make a knowledgeable decision when choosing a provider.

IV. Lead Based Paint Liability Insurance

The Appropriations Act permits HAs to obtain what they determine to be reasonable insurance coverage for the risk of personal injury liability related to testing and abatement of lead-based paint as an allowable expense from HUD modernization funds—until such time as HUD issues regulations specifying "the nature and quality of insurance covering the potential personal injury liability exposure of

[HAs] (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint." A separate rule will be issued to address this type of insurance.

V. Findings and Certifications

A. Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; or

(3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

B. Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street SW., Washington, DC 20410–0500.

C. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule merely gives standards used by HUD in approving housing authority-owned nonprofit insurance entities that may be selected by HAs in accordance with longstanding provisions of the contracts between them and HUD. As a result, the rule is not subject to review under the order.

D. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

E. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is limited to specifying the requirements that a housing authority nonprofit insurance entity must satisfy to be approved by HUD. These procedures are not more onerous for small HAs than for larger ones.

F. "Takings" Assessment

The General Counsel, as the Designated Official under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights, has determined that this rule does not have "takings implications" as defined in HUD's "Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings." The Department does not regard the effects of this rule on private property rights as "effectively denying economically viable use of any distinct legally protected property interest of [a property owner], or result in a permanent or temporary physical occupation, invasion, or deprivation." The proposed rule would merely prescribe, pursuant to statute, the standards for HUD approval of nonprofit insurance entities that want to provide insurance coverage for public housing agencies and Indian housing authorities that receive assistance from HUD under the United States Housing Act of 1937.

G. Regulatory Agenda

This rule was listed as Item No. 1503 under the Office of Public and Indian Housing in the Department's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392, 51436) in accordance with Executive order 12291 and the Regulatory Flexibility Act.

H. Public Reporting Burden

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The Department has determined that the following provisions contain information collection requirements.

PUBLIC REPORTING BURDEN—PARTS 905 AND 965: SELECTION OF A FINANCIALLY SOUND AND RESPONSIBLE INSURANCE COMPANY

Section of rule affected	No. of respondents	No. of responses/ respondent	Total annual responses	Hours per response	Total hours
905.190(b) Submission of documentation by pool to IHA/HUD	20	1	20	1	20
905.190(c) Audit/Actuarial Review	20	1	20	8	160
965.205(b) Submission of documentation by pool to PHA/HUD	30	1	30	1	30
965.205(c) Audit/Actuarial Review	30	1	30	8	240
Total					450

I. Catalog

The Catalog of Domestic Assistance numbers for the programs affected by this rule are 14.850 and 14.851.

List of Subjects

24 CFR Part 905

Grant programs: Indians, Low and moderate income housing, Homeownership, Public housing.

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public

housing, Reporting and recordkeeping requirements, Utilities.

Accordingly, parts 905 and 965 of title 24 of the Code of Federal Regulations are proposed to be amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for part 905 would be revised to read as follows:

Authority: 42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee, 3535(d); 25 U.S.C. 450e(b).

2. A new § 905.190 would be added, to read as follows:

§ 905.190 Insurance.

(a) *Purpose.* This section implements policies concerning insurance coverage required under the Annual Contributions Contract (ACC) or Mutual Help Annual Contributions Contract (MHACC) between the U.S. Department of Housing and Urban Development (HUD) and an Indian Housing Authority. These contracts require (in section 305 of the ACC and Article IX of the (MHACC) that IHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the IHAs. The insurance coverage is required to be obtained from a "financially sound and responsible insurance company." As interpreted by the HUD Appropriations Act for Fiscal Year 1992, this may include an insurance entity that is not an insurance company, but is a nonprofit insurance entity owned and controlled by IHAs. Any such entity must satisfy the standards set forth in paragraph (b) of this section.

(b) *Approval of an insurance entity.* Under the following conditions, HUD will approve, as a financially sound and responsible insurance company, a nonprofit self-funded insurance entity created by IHAs that limits participation to IHAs and that credits IHA payments and investment income to the loss fund if it meets all of the following criteria:

(1) The entity has competent underwriting staff (hired directly or engaged by contract with a third party), as evidenced by professionals with an average of at least five years of experience in large risk (exceeding $100,000 in annual premiums) commercial underwriting. This standard may be satisfied by submission of evidence of competent underwriting staff and of efficient and qualified management, including copies of resumes of underwriting staff and of key management personnel responsible for oversight and for the day-to-day operation of the entity.

(2) The entity has efficient and qualified management (hired directly or engaged by contract with a third party), evidenced by at least one senior staff person who has a minimum of five years of experience at the management level of Vice President of a property/casualty insurance entity or a minimum of five years experience as a senior branch manager of a branch office with annual property/casualty premiums exceeding $5 million. This standard may be satisfied by submission of evidence of an annual budget and internal audit and cost controls over income and expenditures, including an agreement to confine use of all funds to insurance-related expenditures.

(3) The entity maintains internal audit and cost controls over income and expenditures, as evidenced by an annual budget and an agreement to confine use of all funds to insurance-related expenditures.

(4) The entity maintains sound investments consistent with the State insurance commissioner's requirements for licensed insurance companies in the State in which the entity is organized, investing only in assets that qualify as "admitted assets".

(5) The entity maintains adequate reserves for undischarged liabilities of all types, as evidenced by a current audited financial statement and an actuarial review conducted at least biennially, in accordance with paragraph (c) of this section.

(6) The entity has proper organizational documentation, as evidenced by copies of the articles of incorporation, the by-laws, and an opinion from legal counsel that establishment of the entity conforms with all legal requirements under State or Tribal law. Copies of the charter from the State commissioner of insurance or Indian Tribal governing body and of the business plan also must be provided.

(c) *Audit and actuarial reviews.* Before [insert date that is 90 days after the effective date of a final rule], the first audit and actuarial review must be submitted to HUD.

(1) The required audits must be conducted by an independent public accountant, using the conventional statement form recommended by the National Association of Insurance Commissioners. A copy of this audit must be submitted to HUD.

(2) The actuarial review must be conducted by an independent property/casualty actuary who is an Associate or Fellow of a recognized professional actuarial organization. The report issued, a copy of which must be submitted to HUD, must consider the validity of all open claims and include an opinion on any over or under reserving and the adequacy of the reserves maintained for the open claims and for incurred by unreported claims The actuary shall also opine on the following:

(i) Efficiency of any Third Party Administrator;

(ii) Timeliness of the claim payments;

(iii) Effectiveness of the Risk Management Program; and

(iv) The adequate of reinsurance coverage.

(d) *Revocation of approval of an insurance entity.* HUD may revoke its approval of an insurance entity under this section when the entity no longer meets the requirements of this section. The entity will be notified in writing of the proposed revocation of its approval and be given an opportunity to provide evidence and arguments in support of its continued approval in a meeting with HUD headquarters officials responsible for granting such approval.

(e) *Method of selecting insurance coverage.* While 24 CFR part 85 requires that grantees solicit full and open competition for their procurements, the HUD Appropriations Act for Fiscal Year 1992 provides an exception to this requirement. IHAs are authorized to obtain any line of insurance from a nonprofit insurance entity that is owned and controlled by IHAs and approved by HUD, without regard to competitive selection procedures. Procurement of insurance from other entities is subject to competitive selection procedures.

PART 965—PHA-OWNED OR LEASED PROJECTS; MAINTENANCE AND OPERATION

3. The authority citation for part 965 would be revised to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

4. A new subpart B would be added to replace the currently reserved subpart B, to read as follows:

Subpart B—Required Insurance Coverage

Sec.

* * * * *

Subpart B—Required Insurance Coverage

§ 965.201 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to implement policies concerning insurance coverage required under the Annual Contributions Contract (ACC) between the U.S.

Department of Housing and Urban Development (HUD) and a Public Housing Agency (PHA).

(b) *Applicability.* The provisions of this subpart apply to all housing owned by PHAs, including Turnkey III housing. However, these provisions do not apply to section 23 and section 10(c) PHA-leased projects or to Section 8 Housing Assistance Payments Program projects.

§ 965.205 Qualified PHA-owned insurance entity.

(a) *Contractual requirements for insurance coverage.* The Annual Contributions Contract (ACC) between PHAs and the U.S. Department of Housing and Urban Development requires (in section 305 of the ACC) that PHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs. The insurance coverage is required to be obtained from a "financially sound and responsible insurance company." As interpreted by the HUD Appropriations Act for Fiscal Year 1992, this may include an insurance entity that is not an insurance company, but is a nonprofit insurance entity owned and controlled by PHAs, approved in accordance with paragraph (b) of this section.

(b) *Approval of an insurance entity.* Under the following conditions, HUD will approve, as a financially sound and responsible insurance company, a nonprofit self-funded insurance entity created by PHAs that limits participation to PHAs and that credits PHA payments and investment income to the loss fund if it meets all of the following criteria:

(1) The entity has competent underwriting staff (hired directly or engaged by contract with a third party), as evidenced by professionals with an average of at least five years of experience in large risk (exceeding $100,000 in annual premiums) commercial underwriting. This standard may be satisfied by submission of evidence of competent underwriting staff and of efficient and qualified management, including copies of resumes of underwriting staff and of key management personnel responsible for oversight and for the day-to-day operation of the entity.

(2) The entity has efficient and qualified management (hired directly or engaged by contract with a third party), evidenced by at least one senior staff person who has a minimum of five years of experience at the management level of Vice President of a property/casualty insurance entity or a minimum of five years experience as a senior branch manager of a branch office with annual property/casualty premiums exceeding $5 million. This standard may be satisfied by submission of evidence of an annual budget and internal audit and cost controls over income and expenditures, including an agreement to confine use of all funds to insurance-related expenditures.

(3) The entity maintains internal audit and cost controls over income and expenditures, as evidenced by an annual budget and an agreement to confine use of all funds to insurance-related expenditures.

(4) The entity maintains sound investments consistent with the State insurance commissioner's requirements for licensed insurance companies in the State in which the entity is organized, investing only in assets that qualify as "admitted assets".

(5) The entity maintains adequate reserves for undischarged liabilities of all types, as evidenced by a current audited financial statement and an actuarial review conducted at least biennially, in accordance with paragraph (c) of this section.

(6) The entity has proper organizational documentation, as evidenced by copies of the articles of incorporation, the by-laws, and an opinion from legal counsel that establishment of the entity conforms with all legal requirements under State or Tribal law. Copies of the charter from the State commissioner of insurance or Indian Tribal governing body and of the business plan also must be provided.

(c) *Audit and actuarial reviews.* Before [insert date that is 90 days after the effective date of a final rule], the first audit and actuarial review must be submitted to HUD.

(1) The required audits must be conducted by an independent public accountant, using a form approved by the Secretary. A copy of this audit must be submitted to HUD.

(2) The actuarial review must be conducted by an independent property/casualty actuary who is an Associate or Fellow of a recognized professional actuarial organization. The report issued, a copy of which must be submitted to HUD, must consider the validity of all open claims and include an opinion on any over or under reserving and the adequacy of the reserves maintained for the open claims and for incurred but unreported claims. The actuary shall also opine on the following:

(i) Efficiency of any Third Party Administrator;

(ii) Timeliness of the claim payments;

(iii) Effectiveness of the Risk Management Program; and

(iv) The adequacy of reinsurance coverage.

(d) *Revocation of approval of an insurance entity.* HUD may revoke its approval of an insurance entity under this section when the entity no longer meets the requirements of this section. The entity will be notified in writing of the proposed revocation of its approval and be given an opportunity to provide evidence and arguments in support of its continued approval in a meeting with HUD headquarters officials responsible for granting such approval.

§ 965.210 Method of selecting insurance coverage.

While 24 CFR part 85 requires that grantees solicit full and open competition for their procurements, the HUD Appropriations Act for Fiscal Year 1992 provides an exception to this requirement. PHAs are authorized to obtain any line of insurance from a nonprofit insurance entity that is owned and controlled by PHAs and approved by HUD, without regard to competitive selection procedures. Procurement of insurance from other entities is subject to competitive selection procedures.

Dated: October 20, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-27758 Filed 11-16-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 90-064]

RIN 2115-AD71

Drawbridge Operation Regulations; Potomac River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 20, 1991, the Coast Guard published a Notice of Proposed Rulemaking to permanently change the operating schedule of the Woodrow Wilson Memorial Bridge (56 FR 66326) in the **Federal Register.** As a result of recent legislation, the Coast Guard is no longer proposing this rulemaking but rather publishing a final rule containing the operating schedule as passed by Congress. The final rule appears elsewhere in this issue.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION:

Regulatory Background

The Woodrow Wilson Bridge operated under several temporary deviations from the existing permanent regulations from August of 1990 until May 27, 1992. In May, 1992 an interim final rule was published in the **Federal Register** (57 FR 22171) which is still in effect but would have expired on December 31, 1992.

The Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on December 20, 1991 (56 FR 66326) has been superceded by a provision in the National Marine Sanctuary Program Amendments Act of 1992, Public Law 102-587, 106 Stat. 5039, signed by the President on November 5, 1992. This has removed the need to complete the notice and comment rulemaking and it is therefore withdrawn. Furthermore, the legislatively imposed schedule overrides the interim final rule. The amendment of § 117.255, contained in the final rule appearing elsewhere in this issue of the **Federal Register**, completely replaces it.

W.T. Leland,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 92-27838 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL 4514-6]

Establishment and Open Meeting of the Negotiated Rulemaking Advisory Committee for the Hazardous Waste Manifest Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Establishment of Federal Advisory Committee Act (FACA) Committee and meeting announcement.

SUMMARY: As required by section 9(a)(2) of FACA, we are giving notice of the establishment of an Advisory Committee to negotiate a rule delineating a uniform national hazardous waste manifest. We have determined that this is in the public interest and will assist the Agency in performing its duties prescribed in section 7004 of the Resource Conservation and Recovery Act.

Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress.

The Committee's first meeting will be held on December 15, and 16, 1992. The Committee's facilitator has notified interested parties of the meeting dates. The purpose of the meeting is to consider information pertaining to the scope and purpose of the hazardous waste manifest, to generate issues for the committee to discuss and to begin discussion of these issues. The Committee meeting is open to the public without need for advance registration.

DATES: The Committee will meet on December 15 from 10 a.m. to 6 p.m. and December 16 from 8:30 a.m. to 4 p.m.

ADDRESSES: Location of the meeting will be National Governors Association, Hall of States, 444 North Capitol Street, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Rick Westlund, Regulatory Management Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-2745. Persons needing further information on procedural matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-5495, or Committee's facilitator, Suzanne Orenstein, Resolve, 1250 24th Street, NW., suite 500, Washington, DC 20037, (202) 778-9533.

SUPPLEMENTARY INFORMATION:

I. Background: Need for Rule

On January 8, 1990, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) petitioned EPA to modify hazardous waste manifest regulations. A copy of this petition is available for inspection in docket number F-92-HWMN-FFFFF at the EPA RCRA Docket Center, room M2427, 401 M Street, SW., Washington, DC 20460.

ASTSWMO proposed modifications to the regulations to increase the effectiveness, efficiency, and consistency of the national hazardous waste manifest system which at present is an inconsistent structure that can vary widely between States. As a result of such inconsistent formats and procedures, the information generated is also inconsistent and makes access to and dissemination of this information difficult.

II. Scope of the Proposed Negotiation

The primary objective of this rulemaking is to increase uniformity among the States' manifest systems. The current Federal manifest regulatory structure has not been able to deal with many practical circumstances that have developed since the regulations were promulgated. This has forced States to act unilaterally to address inadequacies and ambiguities in the current manifest regulations. In fact, twenty-three States print their own manifest forms. Modifications to the Federal regulations are necessary to standardize the information and to create a truly uniform manifest.

During the negotiations EPA will address whether and how to modify the hazardous waste manifest regulations in order to:

- Standardize data elements and use of the form for all States in response to the ASTSWMO petition;
- Establish procedures for documenting the rejection of loads at the disposal facility;
- Establish procedures for tracking the residual waste remaining in tankers after unloading at the facility; and
- Modify the requirements for waste routed through transfer facilities to avoid unnecessary transportation.

III. Parties to the Negotiation

The following organizations are represented on the committee. The Environmental Protection Agency considers this a balanced committee.

Members

U.S. Environmental Protection Agency

States

Massachusetts Department of Environmental Protection
New York Department of Environmental Conservation
Pennsylvania Department of Environmental Resources
Indiana Department of Environmental Protection
South Carolina Department of Health and Environmental Control
Texas Water Commission
Illinois Environmental Protection Agency
Michigan Department of Natural Resources
California Environmental Protection Agency
Arizona Department of Public Safety
Ohio Department of Transportation

Generators

Vulcan Chemicals
General Motors
Printing Industries of America

Transporters

National Solid Waste Management Association
Heritage Transport
Association of American Railroads

Treatment Storage and Disposal Facilities

Chemical Waste Management
Safety Kleen
Hazardous Waste Treatment Council

Unions

International Brotherhood of Teamsters

Public Interest Groups

Environmental Defense Fund
Citizens Environmental Coalition
Arizona Toxics Information

Other Federal Agencies

Department of Transportation

IV. Negotiation Procedures

The EPA has set a deadline of June 1, 1993, for the committee to complete work on the proposed rule. The Agency intends to terminate the activities of the Committee if it does not appear likely to reach consensus on a schedule that is consistent with Agency needs.

The following procedures and guidelines will apply to the Committee, if formed, unless they are modified as a result of comments received on this Notice or during the negotiating process.

A. Facilitator

EPA will use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiation

Since participants must be willing to negotiate in good faith and be authorized to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well. David Schwarz, Chief of the Information Policy Branch, will be EPA's representative at the negotiation.

C. Administrative Support

The National Governors Association will supply logistical and administrative support. The Environmental Protection Agency's Consensus and Dispute Resolution Program will provide committee management support. If it is deemed necessary and appropriate, EPA will provide technical support to the committee in gathering and analyzing additional data or information.

D. Meetings

Meetings will be held in the Washington area at the convenience of the Committee. EPA will announce Committee meetings in the **Federal Register** in accordance with FACA (5 U.S.C. App.) Such meetings will be open to the public without need for prior reservation.

E. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meetings which they consider most appropriate.

F. Defining Consensus

The goal of the negotiating process is consensus. In the negotiations completed to date, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

G. Failure of Advisory Committee to Reach Consensus

In the event the Committee is unable to reach consensus, EPA may proceed to develop its own rule. Parties to the negotiation may withdraw at any time. If this happens, the remaining Committee members and the Agency will evaluate whether the Committee should continue.

H. Record of Meetings

In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking.

Dated: September 18, 1992.

Thomas E. Kelly,

Director, Office of Regulatory Management and Evaluation, Office of Policy, Planning and Evaluation.

[FR Doc. 92-27705 Filed 11-16-92; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[GEN Docket No. 90-413; DA 92-1540]

Authorization of Central Processing Units and Power Supplies Used in Personal Computers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule: Order extending time to file reply comments.

SUMMARY: This order extends, by 30 days, the reply comment period for the Further Notice of Proposed Rule Making in GEN Docket No. 90-413 (57 FR 37755) concerning authorization of central processing units and power supplies supplies used in personal computers. This action is taken in response to a request filed by the Computer and Business Equipment Manufacturers Association. The intended effect of this action is to ensure that a complete record is developed in this proceeding by allowing ample time for public comment.

DATES: Reply comments must be filed on or before December 14, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 653-7313.

SUPPLEMENTARY INFORMATION:

Order Extending Time to File Comments

Adopted: November 6, 1992.

Released: November 10, 1992.

Reply Comment Date: December 14, 1992.

By the Chief Engineer:

1. A Further Notice of Proposed Rule Making (FNPRM) in the above entitled proceeding was adopted by the Commission on July 1, 1992, and released on July 30, 1992. Comments in this proceeding were due on October 21, 1992, and reply comments are due on November 13, 1992.

2. The Computer and Business Equipment Manufacturers Association (CBEMA) filed with the Commission, on October 30, 1992, a request for a 30 day extension of the reply comment period. CBEMA states that the several proposals outlined in the FNPRM have generated substantial controversy, and that, based on the comments already filed in this proceeding, there is not yet a consensus view on the best approach for accommodating modular personal computer designs. Thus, CBEMA indicates that additional time is needed to allow its member companies' representatives to develop industry positions and to meet with other association members to develop a consensus on this issue.

3. In order to ensure that modular computer systems continue to comply with our standards with a minimal burden to industry and the public, a comprehensive input from manufacturers of personal computers is desirable. Thus, an extension of the reply comment period that would permit a consensus on test procedures and regulations would be in the public interest. Accordingly, it is ordered, pursuant to the delegated authority contained in 47 CFR 0.241(a), that the

period of time for filing reply comments is extended until December 14, 1992.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 92-27788 Filed 11-16-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 61 and 69

[CC Docket No. 91-213; FCC 92-442]

Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a Further Notice of Proposed Rulemaking to examine issues that affect transport. The Commission initiated this proceeding to determine, among other things, what long-term transport rate structure and pricing approach would be most reasonable in an increasingly competitive access environment. The Commission's action in this proceeding is intended to permit more cost-based pricing and greater efficiency for transport services.

DATES: Comments are due on or before December 18, 1992. Reply comments are due on or before January 21, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Suzanne Tetreault, (202) 632-6363, or Melissa Newman, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking, FCC 92-442, adopted September 17, 1992, and released October 16, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422.

Summary of the Further Notice of Proposed Rulemaking

1. The Commission has adopted a Further Notice of Proposed Rulemaking in CC Docket No. 91-213, Transport Rate Structure and Pricing, FCC 92-442, that seeks comment on what long-term transport rate structure and pricing approach would be most reasonable for what will become, given the emergence of competition to local telephone companies and the Commission's expanded interconnection policies, an increasingly competitive environment. In addition, the Commission has sought comment on a limited number of other transport-related issues.

2. The Commission has established three important public interest objectives for transport rate structure and pricing: (1) Facilitating the development of local access competition; (2) promoting efficient use of local exchange networks; and (3) continuing full and fair interexchange competition.

3. In the Further Notice, the Commission noted that the debate in the record to date has focused on two major types of rate structures, the rate structure that the Commission adopted as an interim measure in the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, and the three-part transport rate structure that the Commission proposed in the August 1991 Notice, 6 FCC Rcd 5341 (1991), 56 FR 51869 (Oct. 16, 1991). The interim rate structure and the three-part rate structure differ principally in the treatment of tandem-switched transport, and it was primarily on the rate structure issues related to the treatment of tandem-switched transport that the Commission sought comment.

4. The first issue raised in the record is whether tandem-switched transport should be unbundled into two links, or treated as a single, end-to-end link. The Commission sought comment on whether a transport rate structure that includes both a flat-rate and a per-minute rate for tandem-switched transport, or an end-to-end per-minute rate for tandem-switched transport, would be the better approach in an increasingly competitive access environment. For example, the Commission sought information on how, or if, under the interim plan, third parties can interconnect at the tandem and provide any one of the tandem-switched transport links, i.e., serving wire center to tandem and tandem to end office, to their customers. Also, the Commission asked parties to discuss any non-cost-based reasons why IXCs would choose between tandem-switched transport and direct-trunked transport. In addition, the Commission asked parties to comment on allegations made in the record that multiple tandem deployment results in poor traffic aggregation, and to comment on the viability of various measures that might address, in the context of a competitive access environment, the tandem placement and tandem aggregation issues.

5. A second issue raised in the record is the way in which mileage should be measured in calculating distance-sensitive rates for tandem-switched transport. The Commission asked for comment on how to measure mileage for tandem-switched transport, given an increasingly competitive environment and given our goal of continuing full and fair interexchange competition. The Commission also asked whether mileage should be measured differently for direct-trunked and tandem-switched transport.

6. Both the interim rate structure adopted in the Report and Order and the three-part rate structure proposed in the original Notice have certain advantages and disadvantages in achieving the goals in this proceeding. The Commission welcomed further comment on these rate structures, and on any proposal that combines the best features of both.

7. In the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, the Commission established pricing rules for the interim period that will determine how initial transport rates should be set at the start of the interim period, as well as rules governing changes in transport rates during the interim period. The Commission sought comment on whether initial rates for the long-term rate structure should be those in place at the end of the interim period, or whether some adjustment is necessary before implementing the new structure. The Commission also sought comment on what rules should govern changes in transport rates under a long-term rate structure.

8. With regard to long-term pricing of transport, the Commission asked parties to comment on how competition is likely to affect direct-trunked transport and tandem-switched transport, including the tandem charge, and on the need in a competitive switched transport marketplace for regulatory intervention in setting cost-based rates for transport services.

9. The Commission asked for comment regarding the appropriate level of the tandem charge. As discussed in the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, the tandem charge is designed to recover, on a minute-of-use basis, the interstate tandem switch costs associated with the provision of tandem-switched transport. In the Report and Order, the Commission found that the tandem element should initially recover twenty percent of the tandem revenue requirement, with the remainder assigned to the interconnection charge. The Commission asked parties to comment on what

portion of the tandem revenue requirement is tandem-related and should therefore be paid by tandem-switched transport users. The Commission asked parties to identify and quantify the various uses of the tandem, including intrastate usage. The Commission asked for comment on the advantages and disadvantages of an incremental costing approach in general to measure the costs associated with the tandem, including the appropriate means of calculating incremental costs, and the overhead loadings, if any, that should be incorporated in the study. In quantifying the portion of the tandem revenue requirement that relates to the provision of tandem-switched transport, parties were asked to specify the cost approach they used in sufficient detail to permit evaluation of the costing methodology. The Commission also asked commenters to quantify tandem-switched transport-related costs not now included in the tandem revenue requirement, such as tandem-switched related multiplexing costs, that should be recovered through the tandem charge.

10. The Commission also sought comment on the effect on interexchange competition of using existing special access rates for transport. In addition, the Commission asked parties to comment on the relationship between the DS3 and DS1 rates used for transport, including whether existing rate relationships encourage efficient IXC use of local exchange carrier (LEC) network facilities. The Commission also asked parties to submit comments on whether zone pricing for switched transport services would help ensure that appropriate DS3–to–DS1 rate relationships are maintained, while enabling LECs to respond adequately to increased competition.

11. In addition, the Commission sought comment on whether the LECs should be allowed to implement volume and term discounts for transport rates, both direct-trunked and tandem-switched, in the future. The Commission also sought comment on whether to require LECs to price tandem-switched transport based on the same volume and term discounts that they offer for direct-trunked transport. The Commission also sought comment on the appropriateness of rate relationships between DS3 and multiple–DS3 rates.

12. The application of fixed charges for tandem-switched transport under the two rate structures has also been the subject of comment in the record. This fixed charge would recover the equipment costs at the serving wire center and the end office associated with direct-trunked and tandem-switched transport. The fixed charge is designed to recover the costs incurred at the ends of the interoffice transmission link. The Commission sought comment on whether one or two fixed, per-minute charges should apply for tandem-switched transport. That Commission asked parties that advocate applying the fixed charge only to the dedicated interoffice link of tandem-switched transport to address whether different treatment is warranted when the serving wire center is collocated with the tandem, so that there is no dedicated interoffice link for which a fixed charge would ordinarily be assessed. The Commission also asked parties to identify what costs would be recovered by a fixed charge in this situation.

13. To the extent that some segments of the access marketplace become competitive before others, the Commission sought comment on the effect that certain transport rate structure and pricing decisions would have on the less competitive areas. In particular, the Commission noted that competition for tandem-switched transport service may develop later than competition for direct-trunked transport or for entrance facilities. In considering long-term rate structure and pricing issues, the Commission asked for information on what effect, if any, that should have on rate structure and pricing decisions.

14. As for changes in transport rates for price cap carriers under the long-term rate structure, the Commission tentatively concluded that the rules governing changes in transport rates under the long-term rate structure should be analogous to those for the interim rate structure. Thus, tandem-switched and direct-trunked transport and the interconnection charge would be placed into separate service categories. The entrance facilities charge would be in the same service category as direct-trunked transport. The direct-trunked transport service category would be subject to a five percent pricing band up or down, while the tandem-switched transport category would be subject to a five percent band down and a two percent band up. The interconnection charge would be subject to a zero percent band up, with no restrictions on downward pricing movements.

15. The Commission also tentatively concluded that, for rate-of-return carriers, the current part 69 rules would not be appropriate for governing rate changes. The Commission therefore proposed to amend its part 69 pricing rules for rate-of-return carriers to reflect any differences between the pricing plan that we adopt for the long-term and the interim pricing plan.

16. The Commission also asked for comment on how to reduce the level of the interconnection charge. As discussed in the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91–213, FCC 92–442, the interconnection charge is designed to serve as a transitional measure to avoid dislocations due to the recovery of costs in the transport category that should be allocated to other access categories. The interconnection charge also reduces any unnecessary adverse interim effects on small IXCs resulting from changes in transport rates. The Commission noted that as the access environment becomes more competitive, it is important that only those costs relating to transport service be recovered through transport charges. Accordingly, the Commission tentatively concluded that it should require a phased removal from the interconnection charge of all costs except those relating to clearly identified public policy goals. To the extent that the interconnection charge represents costs more appropriately recovered through access elements other than transport, the Commission proposed that those costs be shifted gradually in conjunction with access charge reforms. The Commission also tentatively concluded that at this time it should not cap the revenues recovered through the interconnection charge for price cap LECs.

17. The comments in this proceeding indicate that the interconnection charge will include a variety of costs. For example, the interconnection charge may recover costs that the Commission in the future may find have been improperly included in the transport category because of the operation of the Commission's part 69 cost allocation rules and the separations process. The Commission tentatively concluded that the LECs should have an opportunity to recover these costs until it has reexamined separations and access charge rules. In addition, the costs of facilities no longer needed because of network reconfigurations will initially be recovered through the interconnection charge. The Commission therefore asked parties to comment on how the costs of reused facilities and their associated overheads from the separations and cost allocation process should be removed from the interconnection charge. The Commission requested that in their comments the Tier 1 LECs submit proposals for lowering the interconnection charge to reflect reuse of facilities.

18. The interconnection charge may also contain costs associated with under-depreciated transport facilities. The Commission sought comment on whether it should amortize undepreciated investment recovered through the interconnection charge, and specifically sought comment on US West's amortization proposal set forth in their comments in response to the Notice, 6 FCC Rcd 5341 (1991), 56 FR 51869 (Oct. 16, 1991), as well as on other proposals for dealing with this investment.

19. The Commission also asked parties to identify which costs recovered through the interconnection charge are traffic-sensitive and may properly be viewed as increasing as traffic increases, and which costs are non-traffic sensitive and are more appropriately recovered through common line rates, which as a general matter do not increase with increases in traffic, and whether different treatment is required depending upon their classification. The Commission also sought means of indexing or capping the nontraffic-sensitive costs to reflect that these costs by definition should not rise as traffic increases, but rather should decrease on a per unit basis. In addition, the Commission sought comment on MFS' contention that the interconnection charge revenues should be capped because otherwise such revenues will automatically increase as a result of increases in the CAPs' business or other increases in switched access usage.

20. The Commission invited parties to identify what additional costs might be recovered through the interconnection element. The Commission also sought comment on the reasons these costs are in the interconnection charge and on the measures that might be used to remove them from this rate element, if that is appropriate. Furthermore, the Commission asked for comment on whether introduction of switched access competition will or should affect the Commission's future treatment of the interconnection charge.

21. The Commission requested that in their comments, Tier 1 LECs describe the nature, and quantify the amount, of costs they expect will be recovered through the interconnection charge. In particular, the LECs were asked to identify the investment, and the associated accumulated depreciation that has been recovered, that are attributable to excess capacity in the switched transport network, as well as the other investment and all overhead costs assigned to these excess facilities. The Commission also asked the LECs to discuss measures to remove these investment and overhead costs from the interconnection charge as this excess capacity is reused or fully depreciated. Parties were also asked to address whether the Commission should apply different methods for removing these costs depending on whether the facilities are reused for interstate or intrastate services. Tier 1 LECs were asked to specify which costs should remain in the interconnection charge, and indicate their preferred approach for removing the other costs from the interconnection charge. In addition, the Commission asked for comment on MFS's proposal that the Commission require that the interconnection charge be administered by a neutral third party.

22. In light of the Commission's expectation of increasing competition for transport services, the Commission proposed to make adjustments in the LEC price cap baskets. Specifically, the Commission proposed to establish baskets that separate more competitive services from less competitive services. Because the Commission expected that its interconnection policies will facilitate the development of competition for both special access and transport services, it tentatively concluded that it should place special access and transport in one transport basket, for which it proposed six service categories. Four of those service categories would be the same service categories that exist now for special access: (1) Voice grade/WATS/metallic/telegraph; (2) audio/video; (3) high capacity/Digital Data Service; and (4) wideband data/wideband analog. Another service category would consist of direct-trunked transport and entrance facilities, while the last service category would include tandem-switched transport. The Commission sought comment on whether the tandem subelement should be included in the proposed transport basket, or whether it should remain as a separate category in a less competitive basket that include services such as local switching.

23. The Commission proposed to employ for special access categories the same banding requirements that are applied today, and to use the banding requirements for tandem-switched transport, direct-trunked transport, and the interconnection charge as set forth in the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442. Specifically, the Commission proposed that direct-trunked transport be subject to a five percent pricing band, but that tandem-switched transport service category be subject to a two percent band for price increases and the usual five percent band for price decreases. In addition, the Commission proposed that the interconnection charge be placed in a separate service category and subject to a zero percent upward pricing band.

24. Under the interim transport rate structure adopted in the Report and Order, Transport Rate Structure and Pricing, CC Docket No. 91-213, FCC 92-442, all LECs except centralized equal access providers and those LECs without measurement and billing capabilities at their end offices are required to charge a flat-rate for direct-trunked transport. The Commission asked for comment on whether small LECs that have end offices that are not equipped with measurement capabilities should be required to charge a flat-rate for direct-trunked transport if an IXC requests direct-trunked transport at that end office. The Commission also sought information on what types of equipment would be necessary in order to upgrade end office switches to include the necessary recording functions to offer flat-rated direct-trunked transport, and how long it would take to accomplish this task.

Ordering Clauses

1. Accordingly, it is ordered, that pursuant to authority contained in §§ 1, 4, 201-205, 218, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201-205, 218, and 220, Notice is hereby given of the proposed changes in part 69 of the Commission's rules. Comment is invited on these proposals.

2. It is further ordered, that WilTel's Petition for Rulemaking is granted to the extent indicated herein.

List of Subjects in 47 CFR Parts 61 and 69

Communications common carriers; Telephone.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-27747 Filed 11-16-92; 8:45 am]

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47 CFR Part 76

[MM Docket No. 92-258, FCC 92-498]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is seeking implementation of the provisions of the

Communications Act that were affected by the passage of the Cable Television Consumer Protection and Competition Act. We are statutorily required to implement some of these changes in 120 days and others in 180 days. The intended effect of this rule making is to request comments and to bring our rules into statutory compliance with the cable television bill.

DATES: Comments must be submitted on or before December 7, 1992, and Reply Comments are due on or before December 21, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Stephen A. Bailey, Office of General Counsel, at 202–254–6530.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Notice of Proposed Rule Making in MM Docket No. 92–258, adopted November 5, 1992, and released November 10, 1992. The full text of this document is available for inspection and copying, Monday through Friday, 9 a.m. to 4:30 p.m. in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, Downtown Copy Center, 202–452–1422, 1114 21st St., NW., Washington, DC 20036.

2. On October 5, 1992, Congress enacted the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102–385, which substantially alters existing provisions of the Communications Act that govern cable television. Section 10 of the Act amends section 612(h) of the Communications Act, 47 U.S.C. 532(h), to permit a cable operator to enforce a "written and published policy of prohibiting programming that the cable operators reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards." This statutory authority is self-executing and, therefore, a cable operator's authority to prohibit on leased access channels programming it reasonably believes to be indecent becomes effective on December 4, 1992.

3. Section 10 of the new Act also amends 612 of the Communications Act (47 U.S.C. 532) by adding a new subsection (j). Paragraph 1 of subsection (j) requires the Commission to promulgate regulations within 120 days of the date of enactment designed to:

Limit the access of children to indecent programming, as defined by Commission regulations, and which cable operators have not voluntarily prohibited under subsection (h) by—

(1) Requiring cable operators to place on a single channel all indecent programs, as identified by program providers, intended for carriage on channels designated for commercial use under this section;

(2) Requiring cable operators to block such single channel unless the subscriber requests access to such channel in writing; and

(3) Requiring programmers to inform cable operators if the program would be indecent as defined by Commission regulations.

Paragraph (2) of subsection (j) states that cable operators are required to "comply with the regulations promulgated pursuant to paragraph (1)."

4. The Commission seeks comment on using for its definition of "indecent programming" the definitional language in the first part of section 10 which refers to programming "that describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards." It invites comment on whether, in light of the Supreme Court's statement in *FCC* v. *Pacifica Foundation*, 438 U.S. 726, 728 (1978), that "each medium of expression presents special First Amendment problems," the Commission should state in its definition that the "community standards" test to be used is one which applies to the cable medium. It notes that, in analogous areas, it has tailored its indecency definitions for broadcast programming and telephone communications to the standards applicable to those particular media. It seeks comment on how it may faithfully execute the provisions of the statute and also ensure that the statute is implemented in the most constitutionally permissible manner.

5. The Commission also seeks comment on proposed regulations that would codify the statutory requirements that require cable operators to place all indecent programming on a single leased access channel and to block access to that channel unless the subscriber requests access in writing. Commenters are asked to provide any relevant suggestions or comments concerning appropriate blocking mechanisms and procedures relating to subscriber access. It also seeks comment on its interpretation that, under section 624(d)(2)(A) of the Communications Act, cable operators would still be required to provide a "lock box," upon request, to a subscriber who has specifically requested access to this channel.

6. It also requests comment on its construction of the statute that cable operators have no power to require that indecent programming be carried on the blocked channel unless the program provider first makes the requisite determination of indecency and so informs the cable operator. The Commission also seeks comment on whether the cable operator, consistent with section 612(c)(2)'s no censorship provision and with the new amendments under section 10, can require program providers to certify that their programming is not obscene or indecent (as defined by Commission regulations). Comment is also sought on what would be a reasonable time frame for the required notification by a program provider to the cable operator, whether such notification should be made in writing, on any other requirements that should be adopted in order to effectuate the new law's provisions and on any other matters not discussed in the notice that they believe have an important bearing on the Commission's proposed implementation of the statute. It asks commenters to address whether a cable operator should be held harmless from liability under its proposed rules if it does not receive any, or timely, notification from a programmer.

7. Finally, the Commission seeks comment on its proposal to codify in the rules the authority afforded to cable operators to prohibit the use of public, educational, or governmental access "for any programming which contains obscene material, sexually explicit conduct, or material soliciting or promoting unlawful conduct," and on whether its regulations should provide for any additional matters not expressly addressed in the statute. Commenters may wish to address whether specific procedures should be developed to govern disputes between the cable operator and programmer of these access channels. Because these channels are mandated and their conditions of use are defined at the local level, the Commission proposes that any disputes between the cable operator and programmer of these access channels be handled at the local level and invites comment on this and any other aspect that they believe would be germane to proper implementation of this provision.

8. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules. See 47 CFR §§ 1.1202, 1.1203 and 1.1206(a). Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comment on or before December 7, 1992, and reply comments on or before December 21, 1992. All

relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting material. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

9. As required by section 603 of the Regulatory Flexibility Act (Pub. L. No. 96–353, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth below. Written public comments are requested on the IRFA. The comments must be filed in accordance with the same filing deadlines as comments on the rest of this Notice of Proposed Rule Making, but they must have a separate and distinct heading, designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

10. Authority for this proceeding is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303 (r) and (j) and section 10 of the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102–385 (1992).

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission

Donna R. Searcy,

Secretary.

Initial Regulatory Flexibility Analysis

Reason for action

This proceeding is being initiated in order to seek comment on the best way to implement section 10 of the Cable Consumer Protection and Competition Act of 1992, Public Law 102–385, relating to indecent programs on leased access channels of a cable system and to cable operator restrictions on certain programs on public, educational, and governmental access channels.

Objectives

The Commission's goal is to provide notice and opportunity to comment to members of the public regarding efficacious implementation of section 10 of the new Act.

Legal basis

Authority for this proposed rule making is contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r) and section 10 of the Cable Consumer Protection and Competition Act of 1992, Public Law 102–385 (1992).

Reporting, Recordkeeping and Other Compliance Requirements

The Commission is asking for comment on whether cable operators shall be required to retain any notifications made by program providers that the program they seek to present on the cable system's leased access channels is indecent.

Federal Rules that Overlap, Duplicate or Conflict With Proposed Rule

None.

Description, Potential Impact, and Number of Small Entities Involved

The rules proposed in this proceeding would impose new burdens on all cable operators, including smaller ones, by requiring them to channel indecent programs on leased access to a single channel but would also enable operators to exercise more control over the content of public, educational, and governmental access channels to the extent they involve programs which contain obscene material, sexually explicit conduct, or material soliciting or promoting unlawful conduct.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

None.

[FR Doc. 92–27787 Filed 11–16–92; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 76

[MM Docket No. 92–260; FCC 92–500]

Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on prescribing rules concerning the disposition, after a subscriber to a cable television system terminates service, of any cable installed by the cable operator within the premises of such subscriber. The adoption of such rules is mandated by section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992. The rule making is intended to satisfy the mandate of that Act by enabling subscribers to acquire the home wiring upon termination of services.

DATES: Comments are due on or before December 1, 1992; Reply comments due December 15, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mary Beth Richards, Phone: 202 632–7090.

SUPPLEMENTARY INFORMATION: This proceeding is required by the Cable Television Consumer Protection and Competition Act of 1992. Public Law 102–385, 106 Stat. 1460 (1992). The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, Washington DC, 20036.

This is a synopsis of the Commission's Notice of Proposed Rule Making, adopted November 5, 1992, released November 6, 1992:

1. In accordance with the Cable Television Consumer Protection and Competition Act of 1992, the Commission proposes to adopt rules which will enable subscribers of cable television service to acquire the wiring in their homes upon the termination of cable service. We seek comment on how we should fashion rules implementing this approach or any alternative approach consistent with congressional intent.

2. Comments are specifically requested on whether, and how, the rules should be tailored to different settings such as single family dwelling, multiple unit dwellings, multiple building settings and educational campuses, and hospitals. Comments are also requested on whether to distinguish between existing and future cable home wiring installations.

3. The Commission also recognizes that ownership issues not directly addressed in the Act arise in the context of both federal and state taxation laws and rules, and that they indirectly affect cable subscriber rate issues. Also, signal leakage, which can interfere with aeronautical and other safety-of-life

services, may be implicated by ownership determinations.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-27605 Filed 11-16-92; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1816

Changes to NASA FAR Supplement Coverage on Cost-Plus-Award-Fee Contracts

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking, which relates to NASA FAR Supplement coverage on cost-plus-award-fee contracts, published November 12, 1992, 57 FR 53681, is being withdrawn for further clarifications and revisions.

ADDRESSES: Assistant Administrator for Procurement, NASA, Code HC, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Luedtke, Director, Contract Pricing and Finance Division (Code HC), Telephone: (202) 358-0003.

Don G. Bush,

Assistant Administrator for Procurement.

[FR Doc. 92-27807 Filed 11-16-92; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

[Docket 48463; Notice 92-22]

RIN 2105-AB53

Transportation for Individuals With Disabilities

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department is proposing to amend its rules implementing the Americans with Disabilities Act (ADA) in several respects. The first modification would specify that transportation providers must permit standees to use lifts which have handrails and/or which otherwise can accommodate standees. The second would clarify procedures for obtaining determinations concerning equivalent facilitation. The third change clarifies the responsibility of transit providers to make seat or wheelchair securement space available to people who need it. The fourth change would reflect a recent statutory change in the name of the Department's transit agency from the Urban Mass Transportation Administration (UMTA) to the Federal Transit Administration (FTA). The fifth change would extend for 18 months, for rail system key stations, the compliance date for the requirement for retrofit of detectable warnings. The sixth change would modify the good faith efforts that Amtrak and commuter rail operators would have to make in order to lease used rail vehicles. The seventh change would conform provisions of the standards for accessible transportation facilities concerning automatic fare vending equipment to changes proposed by the Architectural and Transportation Barriers Compliance Board.

DATES: Comments are requested by January 19, 1993. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. 48463, Department of Transportation, 400 7th Street, SW., room 4107, Washington, DC, 20590. Comments will be available for inspection at this address from 9 a.m. to 5:30 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC, 20590. (202) 366-9306 (voice); (202) 755-7687 (TDD). or Susan Schruth, Office of Chief Counsel, Federal Transit Administration, same address, room 9316. (202) 366-4011 (voice); (202) 366-2979 (TDD).

SUPPLEMENTARY INFORMATION:

I. Introduction

On September 6, 1991, the Department published its final rule implementing the transportation provisions of the Americans with Disabilities Act of 1990 (ADA). Concurrently with the publication of the final rule, staff of the Department and Federal Transit Administration (FTA) traveled extensively to explain the regulatory provisions at a variety of conferences, meetings, and symposia.

Since publication of the final rule, several questions and requests for clarification or change have been submitted to the Department. In many cases, the Department and FTA have handled these questions by letters of explanation or interpretation. Today's document deals with several matters concerning which we have determined to propose changes in the regulation.

II. Standees

Section 37.165 of the Department's final ADA rule (49 CFR part 37; 56 FR 45584, 45640; September 6, 1991) provides that

> The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

In the preamble to the final rule, the Department made the following comments on the origin of this provision:

> In the NPRM the Department neglected to discuss the use of lifts by standees, an oversight that was brought to our attention by a substantial number of disability community commenters. Some comments from transit providers suggested there be limits on the use of lifts by standees (e.g., only where there are handrails, only in a wheelchair provided by the transit authority). Other transit provider comments opposed all standee lift use on safety grounds.
>
> Consistent with requirements of the ADA discussed above, persons who use canes or walkers and other standees with disabilities who cannot readily climb steps into a vehicle must be permitted to use lifts. This is important, among other reasons, because based on the premise that standees can use lifts, the Access Board found it unnecessary to establish a standard for stair riser heights in vehicles that use lifts. Lifts meeting Access Board standards will have handrails. We have some doubts about the practicality of providers carrying wheelchairs on their vehicles to use for standees who are trying to access a vehicle via the lift. (56 FR 45618).

The explanatory appendix to part 37 made the following comment on the regulatory requirement:

> People using canes or walkers and other standees with disabilities who do not use wheelchairs but have difficulty using steps (e.g., an elderly person who can walk on a plane without use of a mobility aid but cannot raise his or her legs sufficiently to climb bus steps) must also be permitted to use the lift, on request. (56 FR 45755).

The legislative history of the ADA mentions this point:

> It is the Committee's intent that the obligation to provide life service applies, not only to people who use wheelchairs, but also to other individuals who have difficulty in walking. For example, people who use crutches [or] walkers * * * should be allowed to use a lift. (S. Rept. 101-116 at 48).

This legislative history statement was made in the context of a discussion of the purchase of buses required, under the ADA, to be "readily accessible to and usable by" individuals with disabilities.

Department of Transportation staff have received a number of inquiries from transportation providers concerning whether the regulatory provision on standees applies to all existing bus lifts, or only to lifts meeting the requirements of 49 CFR part 38 (the Department's adoption as its standards of the Architectural and Transportation Barriers Compliance Board accessibility guidelines for vehicles). The concern expressed by these providers is essentially that some older models of lifts have no handrails or other means of preventing a standee user from losing his or her balance and falling while the lift is in operation. For safety and liability reasons, they would prefer not to carry standees on such lifts. DOT staff have also been contacted by a disability group representative who believes that standees should be accommodated on all lifts.

The Congressional discussion of standees on lifts appears to be in the context of the accessible vehicles (with lifts conforming to specifications in 49 CFR part 38) entities are required to purchase under the ADA. At the same time, it is our understanding that many existing lifts (including some which do not, in all particulars, meet current part 38 standards) have handrails, or other devices, that help standees to maintain their balance while using the lift.

The Department would propose modifying its existing regulatory language to require transit providers to allow standees on lifts which meet part 38 specifications, or which are equipped with handrails or other devices that can assist standees in maintaining their balance. The Department seeks comment on whether this change would improve safety significantly, what the effect would be on consumer access to vehicles, and any other measures that could mitigate any potential safety problems involved with the use of existing lifts while having less significant effects on access.

III. Equivalent Facilitation

Part 38 and appendix A to part 37 both contain provisions concerning equivalent facilitation. The language reads as follows:

> Departures from particular technical and scoping requirements of these guidelines by the use of other designs or technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility [vehicle]. [49 CFR part 37, appendix A, § 2.2; 49 CFR part 38, 38.2]

Further, 49 CFR 37.7 and 37.9 establish a procedure through which an entity may obtain a determination of equivalent facilitation for vehicles and facilities, respectively:

> For purposes of implementing the equivalent facilitation provision * * * a determination of compliance will be made by the [Federal Transit] Administrator or the Federal Railroad Administrator, as applicable, on a case-by-case basis. An entity wishing to employ equivalent facilitation * * * shall submit a request to UMTA or FRA, as applicable, and include the following information: [List of five items of information].

When it drafted these provisions, the Department contemplated a small number of requests from transit providers concerning individual facility or vehicle problems on which flexibility in applying accessibility standards could be provided without negative effects on accessibility. The Department, instead, has received a substantial number of requests for equivalent facilitation determinations from manufacturers relating to approvals of particular products. The Department is proposing to amend the rule to reflect this situation, allowing equivalent facilitation requests to be made by manufacturers and by transportation entities in other modes. The Department seeks comment on whether other parties (e.g., designers) should be permitted to make such requests.

The amendment would include language disclaiming any product endorsement by DOT. The DOT does not make product endorsements, and a statement by a manufacturer that a product which has been deemed, in some context, to provide equivalent facilitation, is "DOT-approved" is inappropriate and misleading.

In drafting the existing regulatory language, the Department also assumed that equivalent facilitation requests would be made in the rail and transit contexts. Consequently, the rule gives equivalent facilitation authority to the FTA and FRA Administrators. There could be other situations in which requests were made pertaining to airport, highway, or other DOT programs. To cover these situations, we would change the rule to authorize the Administrator of the concerned operating Administration to make such a determination, with the concurrence of the Assistant Secretary for Policy and International Affairs in order to ensure consistency.

The amendment would also clarify the public participation obligations of parties asking for equivalent facilitation determinations. The obligations would differ depending on whether the requester was a transportation entity or a manufacturer (in the latter case, the requirement would be a consultation requirement, since there is not a single community whose representatives could be involved in the normal sense of public participation).

IV. Obligation To Ensure the Availability of Seating

An FTA regulation (49 CFR 609.15(d)) requires FTA-assisted public transit authorities to designate priority seating near the front of vehicles for elderly and handicapped persons. Parts 37 and 38 require wheelchair securement locations in vehicles, though transit providers may have fold-down seats that other persons can use when there are no wheelchair users on the vehicle. Transit providers have asked the Department whether they have an obligation under the ADA to direct other passengers to move from designated priority seats or from fold-down seats over a wheelchair securement location when a passenger with a disability who needs the space enters the vehicle.

There is such an obligation. For example, a wheelchair user may not be able to use a bus safely and securely if he or she does not have access to the securement location. An ambulatory person with a disability may be unable to stand for long periods, meaning that the person would be effectively denied access to transportation if he or she could not sit down on a crowed bus. It is not enough, under the ADA, to permit a passenger with a disability to enter a vehicle; the person must be able to use the vehicle for transportation. The availability of seating or securement space is an integral part of accessibility (i.e., having a vehicle that is "readily * * * usable by" an individual with a disability).

To clarify this point, the Department proposes adding to § 37.167 a new paragraph spelling out this obligation, which would apply to private as well as public transportation entities. The obligation would apply in all cases in buses and vans, where a driver is

present and usually in close proximity to the priority seats. In rail vehicles, the requirement would be imposed to the extent practicable, recognizing that personnel are often not available to enforce the requirement.

V. Name Change

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) changed the name of the former Urban Mass Transportation Administration (UMTA) to Federal Transit Administration (FTA). This NPRM would update the terms used in the Department's ADA rules to conform to the ISTEA changes. FTA previously made this change for all the regulations in chapter VI of title 49 of the Code of Federal Regulations. However, the ADA regulation is in subtitle A of that title.

VI. Detectable Warnings

Under appendix A of part 37, which adopts as part of a DOT regulation the Architectural and Transportation Barriers Compliance Board (Access Board) guidelines for accessible facilities, §§ 10.3.1 and 10.3.2, require that an accessible rail station have a 24-inch wide detectable warning strip running the entire length of the platform edge. The warning strip must include a pattern of raised "truncated domes" (i.e., small raised rounded surfaces) as required by § 4.29 of appendix A. The purpose of the detectable warning is to inform blind or visually impaired passengers that they are nearing the edge. The warning does so by being of a contrasting color (i.e., dark vs. light) and texture (i.e., truncated domes vs. smooth surface), as well as (in the case of interior surfaces) by differing in terms of resiliency and sound-on-cane contact.

Having an adequate detectable warning system is a vital safety matter for blind and visually impaired passengers. For example, in one rapid rail system lacking adequate detectable warnings, according to testimony from blind passengers at a 1992 public hearing on the system's proposed key station plan, 15 blind or visually impaired passengers have fallen off the platform in recent years (at least one of them was killed by a train).

At the same time, rail operators have expressed a number of concerns about the detectable warnings requirement. For example, a recent petition to the Access Board from several rail operators cited what they called "extraordinary costs" and unanswered questions about the materials' "durability, maintainability * * * safety, and usability by persons with visual and mobility impairments." The petition requested that the Access Board suspend the detectable warnings standard, pending further research. However, the standard remains in effect.

The Department believes that detectable warnings are a very important safety measure for visually impaired transit users and that the existing design standard fulfills detectability and safety requirements. Nevertheless, the Department believes that rail operators may have legitimate concerns about the installation of detectable warning materials as they retrofit key stations for accessibility. These concerns include the possibility of adhesive failures and "lift-off" (i.e., the corners of tile segments may come up) as well as durability. For example, if the corners of a tile segment curl up, people can trip on them. If passengers expect detectable warning materials to be on the edge of the entire platform, and several feet of material is missing because the adhesive has failed, someone could fall off the platform because the expected warning was absent.

We emphasize that our concerns are not about the basic design of the detectable warnings or their usefulness to people with vision impairments. Rather, they go to the question of how best to apply detectable warning materials to an existing station platform in a retrofit situation. The concerns do not apply with the same force to a new construction situation, where detectable warnings can be made an integral part of the platform design (e.g., through concrete stamping or other methods not involving retrofit). Nor do the Department's concerns relate to the cost of installing detectable warnings in key stations. To the extent that installation of detectable warnings involves an extraordinary expensive structural change to a particular station, the rail operator may use the cost of the installation as part of its rationale for requesting an extension of time to make the key station accessible.

The Department believes that rail operators may need additional time to resolve concerns over adhesion, durability, and maintainability of detectable warning materials in the context of key station modifications. Consequently, the Department is proposing to extend for 18 months the key station compliance date with respect to detectable warnings. Under the present rule, except where the Department extends time for completion of modifications to a key station, rail operators must make key stations accessible by July 1993. This means, of course, that detectable warnings have to be in place by that date. Under the proposal, rail operators would have until January 1995 to complete installation of detectable warnings.

The Department seeks comment on whether the 18-month period is appropriate. Will it provide sufficient time for the retrofit-related concerns about detectable warnings to be resolved? Are there ways of resolving these concerns that could involve less than an 18-month period? In the Department's view, during the 18-month period, rail operators would have the responsibility of working with manufacturers of detectable warning materials, the Access Board and the Department to solve whatever application problems exist. The Federal Transit Administration is pursuing additional research and evaluation concerning the durability and detectability of tactile warnings during this period, which may be of assistance to rail operators in this effort. It should be emphasized that this proposal would not relieve transit providers from the responsibility of making detectable warnings a part of new construction or alterations of platform.

VII. Lease of Used Rail Cars by Amtrak and Commuter Rail Operators

Section 37.87 of the Department's ADA regulation provides that when Amtrak or a commuter authority purchases or leases a used intercity or commuter rail car, it must either obtain an accessible car or demonstrate good faith efforts it has made to do so. These good faith efforts are the same that apply to purchases of used rolling stock (e.g., buses) by mass transit systems—an initial solicitation for accessible vehicles, a nationwide search for accessible vehicles, including advertising in trade publications and contacting trade associations.

Amtrak has told DOT staff that this provision is not appropriate in an important situation in which it leases rail cars. Frequently (e.g., at holiday times or other high-demand periods), Amtrak must obtain additional cars from nearby commuter rail authorities on short notice for a short period of time. For example, Amtrak may need a certain number of cars to carry overflow traffic at Thanksgiving or Christmas on the Northeast Corridor. Amtrak may have a standing reimbursable agreement with Boston or Washington/Baltimore area commuter authorities to borrow commuter rail cars on short notice in these situations. There is no time to make a nationwide search or advertise in trade publications, and no point in seeking cars from distant commuter authorities (which may not meet dimensional requirements for Northeast

Corridor service and which would take too long to arrive).

To accommodate this situation, the Department proposes to add a new paragraph to this section, which would allow good faith efforts to be documented in a different way. For a short-term lease of commuter rail cars (i.e., for a period of seven days or less; the Department seeks comment on whether this is the appropriate period), Amtrak and commuter authorities could have, in standing agreements with one another, a provision requiring available accessible cars to be provided before other cars in the donor agency's fleet. The proposal would also require that if the borrower had a choice of obtaining cars from more than one source, it would obtain the cars from a source that had accessible cars before it obtained inaccessible cars from the other source.

For example, suppose there is a standing agreement between Amtrak and Commuter Authority B. The agreement would provide that when Amtrak borrowed cars from B, B would make available and Amtrak would take its accessible cars first, to the extent they are available (e.g., B would not have to provide cars that were in the repair shop or that it was impossible to make available for Amtrak's use in a timely fashion). Also, if Amtrak could obtain cars for a particular area of its service from both Commuter Authority B and Commuter Authority C, and C had more accessible cars available than B, Amtrak would borrow C's accessible cars before it borrowed inaccessible cars from B.

The Department seeks comment on the practicability of this approach. For example, it is the Department's understanding that Amtrak often obtains intact train sets from a commuter authority, rather than individual cars. How would this proposal work in such a transaction? Are there refinements that should be made to deal with train set leases? The Department also seeks comment on the proposal's consistency with the intent of the ADA, and any alternative suggestions for dealing with the issue Amtrak has raised.

To the Department's knowledge, the short term Amtrak/commuter authority rail car lease relationship situation is a unique one, with no precise parallels in other transportation activities the Department regulates under part 37. Moreover, there is specific legislative history concerning good faith efforts in used vehicle purchases in other contexts. The Department does not anticipate proposing similar modifications to other used vehicle acquisition provisions for the ADA rule.

VIII. Automatic Fare Vending Machines

In appendix A to part 37, § 10.3.1(7) requires automatic fare vending equipment and related devices to conform, among other things, to the requirements of §§ 4.34.2–4.34.4, concerning automated teller machines (ATMs). Recently, the Access Board proposed amending its guidelines for ATMs. See 57 FR 41006, September 8, 1992. The proposed changes concern the "reach range" (e.g., how far a person must reach to operate the controls) of ATMs. The Department refers interested commenters to the Access Board publication for more detailed information on this proposal.

The ADA requires the Department to adopt standards consistent with the Access Board guidelines. However, the Department seeks comment on how the proposed Access Board ATM standard modifications would affect automatic fare vending and collection systems. Are there differences in the settings (i.e., transit stations vs. banks) or in the way people use fare vending systems, as opposed to ATMs, that should lead the Department to use a different standard for fare vending systems from the guideline the Access Board is proposing for ATMs?

Regulatory Analyses and Notices

This rule is not a major rule under Executive Order 12291. It is a significant rule under the Department's Regulatory Policies and Procedures, since it amends the Department's Americans with Disabilities Act rule, which is a significant rule. We expect economic impacts to be minimal, so we have not prepared a full regulatory evaluation. There are no Federalism impacts sufficient to warrant the preparation of a Federalism assessment. The Department certifies that the rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 37

Buildings, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Issued this 6th day of November 1992, at Washington, DC.

Andrew H. Card, Jr.,

Secretary of Transportation.

For the reasons set forth in the Preamble, the Department of Transportation proposes to amend 49 CFR part 37 as follows:

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

1. The authority citation for 49 CFR part 37 continues to read as follows:

Authority: Americans with Disabilities Act of 1990 (42 U.S.C. 12101–12213); 49 U.S.C. 322.

2. In 49 CFR part 37, the words "Urban Mass Transportation Administration" are changed to the words "Federal Transit Administration" in every instance in which those words appear; the letters "UMTA" are changed to the letters "FTA" in every instance in which those letters appear; and the words "UMT Act" and "Urban Mass Transportation Act" are changed to the words "FT Act" and "Federal Transit Act", respectively in every instance in which those words appear.

§ 37.3 [Amended]

2a. In § 37.3, the definition for "FT Act" is moved to the proper alphabetical order.

3. In § 37.7, paragraph (b) is revised to read as follows:

§ 37.7 Standards for accessible vehicles.

* * * * *

(b) For purposes of implementing the equivalent facilitation provision in § 38.2 of this title, a determination of compliance will be made by the Administrator of the concerned operating administration on a case-by-case basis, with the concurrence of the Assistant Secretary for Policy and International Affairs. A determination of equivalent facilitation pertains only to the specific situation concerning which the determination is made. A public or private entity that provides transportation facilities (including an airport) or designated or specified transportation services subject to the provisions of this part, or the manufacturer of a vehicle or vehicle component or subsystem to be used by such a transportation provider, who wishes to employ equivalent facilitation in relation to a specification of part 38 of this title shall submit such a request to the applicable operating administration, and include the following information:

(1) Entity name, address, contact person and telephone;

(2) Specific provision of part 38 with which the entity is unable to comply;

(3) Reasons for inability to comply;

(4) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the vehicle provided in part 38; and

(5) Public participation used in developing an alternative method of

compliance and documentation of that participation.

(i) In the case of a request by a public entity that provides transportation facilities (including an airport) or designated transportation services subject to the provisions of this part, the required public participation shall include the following:

(A) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request, to members of the public.

(B) The entity shall make its proposed request available for public comment before the request is made final or transmitted to DOT. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(C) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(ii) In the case of a request by a manufacturer or a private entity, the manufacturer or private entity shall consult, in person, in writing, or by other appropriate means, with representatives of national organizations representing people with those disabilities who would be affected by the request.

(iii) The party making the request shall provide documentation of its public participation with its request.

* * * * *

4. In § 37.9, paragraph (d) is revised to read as follows:

§ 37.9 Standards for accessible transportation facilities.

* * * * *

(d) For purposes of implementing the equivalent facilitation provision in § 2.2 of appendix A of this part, a determination of compliance will be made by the Administrator of the concerned operating administration on a case-by-case basis, with the concurrence of the Assistant Secretary for Policy and International Affairs. A determination of equivalent facilitation pertains only to the specific situation concerning which the determination is made. A public or private entity that provides transportation facilities (including an airport) or designated or specified transportation services, subject to the provisions of this part, or the manufacturer of a product to be used by such an entity, who wishes to employ equivalent facilitation in relation to a specification of appendix A of this part, shall submit such a request to the applicable operating administration, and include the following information:

(1) Entity name, address, contact person and telephone;

(2) Specific provision of appendix A of this part with which the entity is unable to comply;

(3) Reasons for inability to comply;

(4) Alternative method of compliance, with demonstration of how the alternative meets or exceeds the level of accessibility or usability of the facility provided in appendix A of this part; and

(5) Public participation used in developing an alternative method of compliance and documentation of that participation.

(i) In the case of a request by a public entity that provides transportation facilities (including an airport) or designated transportation services, subject to the provisions of this part, the required public participation shall include the following:

(A) The entity shall contact individuals with disabilities and groups representing them in the community. Consultation with these individuals and groups shall take place at all stages of the development of the request for equivalent facilitation. All documents and other information concerning the request shall be available, upon request, to members of the public.

(B) The entity shall make its proposed request available for public comment before the request is made final or transmitted to DOT. In making the request available for public review, the entity shall ensure that it is available, upon request, in accessible formats.

(C) The entity shall sponsor at least one public hearing on the request and shall provide adequate notice of the hearing, including advertisement in appropriate media, such as newspapers of general and special interest circulation and radio announcements.

(ii) In the case of a request by a manufacturer or private entity, the manufacturer or private entity shall consult, in person, in writing, or by other appropriate means, with representatives of national organizations representing people with those disabilities who would be affected by the request.

(iii) The party making the request shall provide documentation of its public participation with its request.

5. Section 37.47(c)(1) is revised to read as follows:

§ 37.47 Key stations in light and rapid rail systems.

* * * * *

(c)(1) Unless an entity receives an extension under paragraph (c)(2) of this section, the public entity shall achieve accessibility of key stations as soon as possible, but in no case later than July 26, 1993, except that an entity is not required to complete installation of detectable warnings required by § 10.3.2(2) of appendix A to this part until January 26, 1995.

* * * * *

6. Section 37.51(c)(1) is revised to read as follows:

§ 37.51 Key stations in commuter rail systems.

* * * * *

(c)(1) Except as provided in this paragraph, the responsible person(s) shall achieve accessibility of key stations as soon as possible, but in no case later than July 26, 1993, except that an entity is not required to complete installation of detectable warnings required by § 10.3.2(2) of appendix A to this part until January 26, 1995.

* * * * *

7. Section 37.87 is amended by redesignating the present paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 37.87 Purchase or lease of used intercity and commuter rail cars.

* * * * *

(d) When Amtrak or a commuter authority leases a used intercity or commuter rail car for a period of seven days or less, Amtrak or the commuter authority may make and document good faith efforts as provided in this paragraph instead of in the ways provided in paragraph (c) of this section:

(1) By having and implementing, in its agreement with any intercity railroad or commuter authority that serves as a source of used intercity or commuter rail cars for a lease of seven days or less, a provision requiring that the lessor provide all available accessible rail cars before providing any inaccessible rail cars.

(2) By documenting that, when there is more than one source of intercity or commuter rail cars for a lease of seven days or less, the lessee has obtained all available accessible intercity or commuter rail cars from all sources before obtaining inaccessible intercity or commuter rail cars from any source.

* * * * *

8. In § 37.165, paragraph (g) is revised to read as follows:

§ 37.165 Lift and securement use.

* * * * *

(g) The entity shall permit individuals with disabilities who do not use

wheelchairs, including standees, to use a vehicle's lift (if the lift conforms to the standards of 49 CFR part 38 or has a handrail or other device to assist a user in maintaining his or her balance while the lift is in operation) or ramp to enter the vehicle.

9. In § 37.167, a new paragraph (j) is added, to read as follows:

§ 37.167 Other service requirements.

* * * * *

(j) When an individual with a disability enters a bus or van and because of a disability, the individual needs to sit in a seat or occupy a wheelchair securement location, the entity shall direct persons, except other individuals with a disability or elderly persons, sitting in a location designated as priority seating for elderly and handicapped persons (or other seat as necessary) or a fold-down seat in a wheelchair securement location to move in order to allow the individual with a disability to occupy the seat or securement location. The entity shall comply with this requirement to the extent practicable with respect to rail vehicles.

10. In part 37, appendix A is amended by revising paragraph (20) in section 4.1.3, by revising sections 4.34 and 4.34.1 through 4.34.4, and by adding section 4.34.5 to read as follows:

Appendix A to Part 37—Standards for Accessible Transportation Facilities

* * * * *

4.1.3 * * *

(20) Where automated teller machines are provided, each machine shall comply with the requirements of 4.34 except where two or more are provided at a location, then only one must comply.

Exception: Drive-up-only automated teller machines are not required to comply with 4.34.2 and 4.34.3

* * * * *

4.34 Automated teller machines.

4.34.1 General.

Each automated teller machine required to be accessible by 4.1.3 shall be on an accessible route and shall comply with 4.34.

4.34.2 Clear floor space.

The automated teller machine shall be located so that clear floor space complying with 4.2.4 is provided to allow a person using a wheelchair to make a forward approach, a parallel approach, or both, to the machine.

4.34.3 Reach ranges.

(1) Forward Approach Only. If only a forward approach is possible, operable parts of all controls shall be placed within the forward reach range specified in 4.2.5.

(2) Parallel Approach Only. If only parallel approach is possible, operable parts of controls shall be placed as follows:

(a) Reach Depth Not More Than 10 In (255 Mm). Where the reach depth to the operable parts of all controls as measured from the vertical plane perpendicular to the edge of the unobstructed clear floor space at the farthest protrusion of the automated teller machine or surround is not more than 10 in (255 mm), the maximum height from the floor shall be 54 in (1370 mm).

(b) Reach Depth More Than 10 In (255 Mm). Where the reach depth to the operable parts of any control as measured from the vertical plane perpendicular to the edge of the unobstructed clear floor space at the farthest protrusion of the automated teller machine or surround is more than 10 in (255 mm), the maximum height from the floor shall be as follows:

Reach depth		Maximum height	
In	Mm	In	Mm
10	255	54	1370
11	280	53½	1360
12	305	53	1345
13	330	52½	1335
14	355	51½	1310
15	380	51	1295
16	405	50½	1285
17	430	50	1270
18	455	49½	1255
19	485	49	1245
20	510	48½	1230
21	535	47½	1205
22	560	47	1195
23	585	46½	1180
24	610	46	1170

(3) Forward and Parallel Approach. If both a forward and parallel approach are possible, operable parts of controls shall be placed within at least one of the reach ranges in paragraphs (1) or (2) of this section.

(4) Bins. Where bins are provided for envelopes, waste paper, or other purposes, at least one of each type provided shall comply with the applicable reach ranges in paragraph (1), (2), or (3) of this section.

Exception: Where a function can be performed in a substantially equivalent manner by using an alternate control, only one of the controls needed to perform that function is required to comply with this section. If the controls are identified by tactile markings, such markings shall be provided on both controls.

4.34.4 Controls.

Controls for user activation shall comply with 4.27.4.

4.34.5 Equipment for persons with vision impairments.

Instructions and all information for use shall be made accessible to and independently usable by persons with vision impairments.

* * * * *

[FR Doc. 92-27622 Filed 11-16-92; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 921076-2276]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed 1993 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues this notice of proposed quotas for the Atlantic surf clam and ocean quahog fisheries for 1993. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1993.

DATES: Public comments must be received on or before December 16, 1992.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's Analysis and Recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Send comments to Richard B. Roe, Regional Director, Northeast Region, NMFS, 1 Blackburn Circle, Gloucester, MA 01930. Mark on the outside of the envelope, "Comments—1993 Surf Clam and Ocean Quahog specifications."

FOR FURTHER INFORMATION CONTACT: Myles Raizin (Resource Policy Analyst) 508-281-9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation

with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges that have been identified as an OY for each fishery.

For surf clams, the OY must fall within the range of 1.85 to 3.4 million bushels. For ocean quahogs, the OY must fall within the range of 4.0 to 6.0 million bushels.

In proposing the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

Proposed quotas of 2.85 million bushels for surf clams and 5.4 million bushels for ocean quahogs were recommended by the Council. While the proposed quota for surf clams remains unchanged from the level recommended by the Council in 1992, the recommended quota for ocean quahogs has increased by 100,000 bushels.

Surf Clams

The 1993 proposed quota for surf clams of 2.85 million bushels is identical to the base quota for the Mid-Atlantic region and Nantucket Shoals combined for the years 1986 through 1992. The potential harvest of 300,000 bushels for the Georges Bank area was not added to this proposed quota on the assumption that the area east of 69° West longitude will be closed for fishing in 1993 due to the continued danger of paralytic shellfish poisoning. Under the current FMP, the Mid-Atlantic, Nantucket Shoals, and Georges Banks areas are combined. Therefore, the 300,000 bushels could be taken in the areas west of 69° West longitude. However, with the decline in abundance of surf clams in the Mid-Atlantic and the absence of a significant year class since 1976 off New Jersey and 1977 off Delmarva, the conservation of the resource is best served by maintaining the present quota of 2.85 million bushels.

Ocean Quahogs

The 1993 proposed quota for ocean quahogs is 5.4 million bushels. Since only two percent of the minimum biomass estimate is removed each year, this level of quota is conservative in regard to biological restrictions. Although the Council recognizes the heavy concentration of the active fishery on the southern ten percent of the resource, it believes that this relatively small increase in the level of quota would not be detrimental to the stock.

The Council considered an increase in the quota for the 1993 fishery but decided it had the potential to cause disruptions to the quahog market at a time when a new management regime (individual transferable quotas) had recently been put into place. Since prices and landings for the 1991 and 1992 fisheries have been relatively stable, the Council believes that a potential increase in supply of ocean quahogs, on the order of 1.8 percent, would not be disruptive.

The proposed quotas for the 1993 Atlantic surf clam and ocean quahog fisheries are as follows:

1993 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1993 proposed quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,400,000

Other Matters

This action is taken under authority of 50 CFR part 652 and in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 10, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-27841 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-08-M

Notices

Federal Register
Vol. 57, No. 222
Tuesday, November 17, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held December 7 & 8, 1992. On December 7 the Committee will meet in Executive session at the BXA Field Office, Suite 226, 5201 Great American Parkway, Santa Clara, CA 95054. On December 8 the Committee will meet at 1 p.m. in Open Session at the Fairmont Hotel, 170 S. Market Street, San Jose, CA 95113. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems/peripherals or technology.

Agenda

Executive Session. December 7, 1992, 9 a.m.–5 p.m.

1. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

General Session. December 8, 1–5 p.m.

2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Presentation by Sun Micro Systems on High Performance Workstations.
5. Advances in Disk Technologies and Interpreting the Disk Drive Controlling Parameters.
6. Computer Performance Measurement—CTP

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: November 10, 1992.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92–27848 Filed 11–16–92; 8:45 am]

BILLING CODE 3510–DT–M

Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee will be held December 8, 1992, 9 a.m. to 12 noon at the Fairmont Hotel, 170 S. Market Street, San Jose, CA 95113. The Subcommittee was formed to review the procedural aspects of export licensing and recommended areas where improvements can be made.

Agenda

1. Opening remarks by the Chairwoman.
2. Presentation of papers or comments by the public.
3. Review of Benefits of Electronic Licensing.
4. Discussion of New Combined Export Licensing Form.
5. Status Report on Revisions to General License GLV.
6. Request for Industry Ideas for Streamlining Regulations and Procedures.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, TSS/ODAS–EA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: November 10, 1992.

Betty Ann Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92–27849 Filed 11–16–92; 8:45 am]

BILLING CODE 3510–DT–M

Electronics Technical Advisory Committee; Closed Meeting

A meeting of the Electronics Technical Advisory Committee will be held December 10, 1992, at 9 a.m., in the Herbert C. Hoover Building, room 1617M–2, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment or technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356,

dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 5, 1991, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information, call (202) 482-4959.

Dated: November 10, 1992

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of the Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-27851 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held December 8, 1992, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Approval of minutes.
3. Presentation of papers or comments by the public.
4. Report on status of COCOM Negotiations.
5. Discussion and Recommendations Regarding Protocol Analyzers.
6. Other business—next meeting date.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, ODAS/EA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482-2583.

Dated: November 10, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92-27850 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 605]

Expansion of Subzone Status, Subzone 110A; Adria-SP, Inc. Plant, Albuquerque, NM

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 82a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, An application from the City of Albuquerque, NM, Grantee of FTZ Subzone 110A at the Adria-SP, Inc. plant in Albuquerque, for authority to expand the subzone and the scope of manufacturing permitted under zone procedures at FTZ Subzone 110A to include a wider range of pharmaceutical products, was filed by the Board on October 11, 1991 (FTZ Docket 59-91, 56 FR 56054, October 31, 1991);

Whereas, The application was amended on March 5, 1992 (57 FR 8630, March 11, 1992) and again on June 4, 1992 (57 FR 24594, June 10, 1992);

Whereas, The Board has found that the requirement of the Act and the Board's regulations have been satisfied and that the proposal is in the public interest;

Now, Therefore, The Board hereby orders that the Grantee is authorized to expand Subzone 110A and the scope of subzone manufacturing authority at the Adria-SP, Inc., plant in Albuquerque, NM, in accordance with the application, as amended, subject to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, October 8, 1991), including section 400.28.

Signed at Washington, DC, this 5th day of November, 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration; Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-27842 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-820]

Postponement of Preliminary Antidumping Duty Determination: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China (PRC)

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: November 17, 1992.

FOR FURTHER INFORMATION CONTACT: Brian Smith, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 482-1766.

POSTPONEMENT: On November 6, 1992, the U.S. Waterworks Fittings Producers Council and its individual members, Clow Water Systems, Tyler Pipe Industries, Inc., and Union Foundry Company, petitioners in this investigation, requested that the Department postpone the preliminary determination in accordance with section 733(c)(1) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(c)(1)). We find no compelling reasons to deny the request and are, accordingly, postponing the date of the preliminary determination until February 3, 1993.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: November 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27847 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-811]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 17, 1992.

FOR FURTHER INFORMATION CONTACT: Cherie Rusnak or Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0194.

PRELIMINARY DETERMINATION: We preliminarily determine that certain hot-rolled lead and bismuth carbon steel products from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on May 4, 1992 (57 FR 19881, May 8, 1992), the following events have occurred.

On May 28, 1992, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination.

On June 16, 1992, the Department presented a questionnaire to Mannesmann S.A. (Mannesmann), the company accounting for the overwhelming majority of imports of the subject merchandise from Brazil during the period of investigation. Responses to the questionnaire were originally due on June 30, 1992, and July 14, 1992. At Mannesmann's request, the Department granted extensions of time until July 8, 1992, for Section A and July 28, 1992, for Sections B and C. Mannesmann submitted its questionnaire responses on the deadlines specified. On July 17, 1992, petitioners objected to respondent's failure to properly describe confidential information, translate certain documents, and provided some comments on Section A. On July 20, 1992, petitioners provided additional comments on Mannesmann's response to Section A. The response to Section A was returned for non-conformance on July 29, 1992, and resubmitted on July 31, 1992. The responses to Sections B and C were returned for non-conformance on August 5, 1992, and resubmitted on August 6, 1992. Petitioners submitted comments on Sections B and C on August 6, 1992. We issued a supplemental questionnaire on August 7, 1992. On August 12, 1992, petitioners alleged that Mannesmann sold the subject merchandise in the home market below its cost of production (COP). The supplemental questionnaire response was submitted on August 21, 1992. On August 24, 1992, petitioners requested a postponement of the preliminary determination from September 21, 1992, until November 10, 1992. The postponement was granted August 28, 1992 (57 FR 40635, September 4, 1992). On August 26, 1992, petitioners filed comments on the supplemental response. On September 3, 1992, corrections to Section B were submitted along with a computer tape. On September 10, 1992, the September 3rd submission was returned for non-conformance and resubmitted on September 15, 1992. On September 11, 1992, a COP questionnaire was presented. On September 21, 1992, the Department requested additional information regarding Mannesmann's export financing of certain shipments to the United States. In a letter dated September 25, 1992, Mannesmann stated that they have decided that the ongoing burden of proceeding with this investigation outweighs its commercial interests in continuing with the investigation. Therefore, Mannesmann will not be responding further to any of the Department's requests for information in connection with this investigation.

Scope of Investigation

The products covered by this investigation are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of the following products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 7213.31.60.00; 7213.39.00.30, 7213.39.00.60, 7213.39.00.90; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10, 7214.50.00.30, 7214.50.00.50; 7214.60.00.10, 7214.60.00.30, 7214.60.00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1991 through April 30, 1992.

Use of Best Information Available

As stated above, Mannesmann did not reply to our request dated September 21, 1992, for documentation for certain U.S. sales which were financed and has refused to cooperate further with the Department. The company has refused to respond to Section D of the questionnaire or to further requests for information, and has refused to participate in a verification. Thus, the Department, in accordance with section 776(c) of the Act, must base its determination on the best information available (BIA) for Mannesmann. Section 353.37(b) of the Department's regulations provides that in determining what is the best information available, the Department may take into account whether a party refuses to provide requested information, or otherwise significantly impedes the Department's investigation. Because Mannesmann did not cooperate with the Department in this investigation, we used as BIA, petitioners' highest adjusted margin of 148.12 percent. In this case, the price-to-price margins found in the petition are

the only information available. (See *e.g.*, Heavy-forged Hand Tools from the People's Republic of China, 56 FR 244, January 1, 1991, and Memorandum from Holly A. Kuga to Joseph A. Spetrini, November 5, 1992.)

Verification

Since the Department did not receive a response to Section D of its questionnaire and is basing its determination on BIA, no verification will be necessary.

Suspension of Liquidation

In accordance with sections 733(d) (1) and (2) of the Act (19 U.S.C. 1673(d) (1) and (2)), we are directing the U.S. Customs Service to suspend liquidation of all entries of certain lead and bismuth carbon steel products from Brazil, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin as shown below. The suspension of liquidation will remain in effect until further notice. The average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted/ average margin percentage
Mannesmann S.A.	148.12
All others	148.12

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than January 5, 1993. Rebuttal briefs must be submitted no later than January 11, 1993. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 13, 1993, at 2 pm at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: November 9, 1992.

Rolf Th. Lundberg,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27843 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-810]

Initiation of Antidumping Duty Investigation; Pads for Woodwind Instrument Keys From Italy Manufactured by Luciano Pisoni Accessori Strumenti Musicali A Fiato

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 17, 1992.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2778.

INITIATION OF INVESTIGATION:

The Petition

On October 21, 1992, we received a petition filed in proper form by Prestini Musical Instrument Company (petitioner). A supplement to the petition was received on November 3, 1992. In accordance with 19 CFR 353.12, petitioner alleges that pads for woodwind instrument keys (pads) from Italy manufactured by Luciano Pisoni Accessori Strumenti Musicali A Fiato (Pisoni) are being, or likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E) or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14 (1992).

Case History

On September 21, 1984, the Department published in the **Federal Register** (49 FR 37137) an antidumping duty order on pads from Italy. In 1986, the petitioner requested that the Department conduct an administrative review for the manufacturers or exporters covered by the order at that time.

When this review was initiated, the Department's 1984 antidumping duty order was the subject of litigation. On June 12, 1986, the United States Court of International Trade (CIT) found that the Department had erred in certain respects and remanded the final determination for a redetermination on those pads manufactured by Pisoni. As a result of those remand proceedings, the Department found that pads from Italy, manufactured by Pisoni, were not being, nor were likely to be, sold in the United States at less than fair value. On September 15, 1986, the CIT affirmed the Department's redetermination on remand. On November 5, 1986, the Department published in the **Federal Register** (51 FR 40239) a partial revocation of the antidumping duty order on pads with regard to merchandise produced by Pisoni. As a consequence of this revocation, the Department terminated the review which was initiated on September 8, 1986 with respect to Pisoni.

Scope of Investigation

The products covered by this investigation are pads for woodwind instrument keys, which are

manufactured by Pisoni. Pads for woodwind instrument keys covered by the scope of this investigation are currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 9209.99.4040 and 9209.99.4080 Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner based its estimate of United States Price (USP) on an export price list from Pisoni, dated January 1, 1992, which listed new prices for all Pisoni pads for all export markets. Because they are wholesale ex-works prices, no adjustments were necessary.

Petitioner based its estimate of Foreign Market Value (FMV) on a price list from Pisoni, dated January 16, 1992. The prices are wholesale prices which are IVA (VAT) exclusive and are f.o.b. plant site in Italy. Therefore, no adjustments were necessary.

The range of dumping margins of pads based on price-to-price comparisons alleged by petitioner is 15.9%–68.8%.

Critical Circumstances

Petitioner also alleges that "critical circumstances" exist, within the meaning of section 733(e) of the Act, with respect to imports of the subject merchandise manufactured by Pisoni.

Initiation of Investigation

We have examined the petition of pads from Italy manufactured by Pisoni and have found that it meets the requirements of section 732(b) of the Act. Because the original antidumping duty order was revoked with respect to Pisoni, and because we now have a reasonable basis to believe or suspect that Pisoni is now selling at less than fair value, we are initiating an antidumping duty investigation to determine whether imports of pads from Italy manufactured or exported by Pisoni are being, or are likely to be, sold in the United States at less than fair value.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by December 5, 1992, whether there is a reasonable indication that imports of pads from Italy manufactured by Pisoni are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 10, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27846 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

November 10, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated March 15, 1992 and June 9, 1992, between the Governments of the United States and the Arab Republic of Egypt establishes import restraint limits for the period beginning on January 1, 1993 and extending through December 31, 1993.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Information regarding the 1993 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated March 15, 1992 and June 9, 1992, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–317 and 326, as a group	73,651,382 square meters.
Sublevels in Fabric Group	
218	2,508,000 square meters.
219	17,321,886 square meters.
220	17,321,886 square meters.
224	17,321,886 square meters.
225	17,321,886 square meters.
226	17,321,886 square meters.
227	17,321,886 square meters.
313	31,807,948 square meters.
314	17,321,886 square meters.
315	20,341,247 square meters.
317	17,321,886 square meters.
326	2,508,000 square meters.
Levels not in a group	
300/301	6,784,951 kilograms of which not more than 2,128,000 kilograms shall be in Category 301.
339	821,609 dozen.
369–S [1]	1,039,330 kilograms.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1992 through December 31, 1992 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement between the Governments of the United States and the Arab Republic of Egypt.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-27782 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DR-F

Establishment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Qatar

November 10, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 19, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as no agreement was reached on a mutually satisfactory solution on Categories 347/348 during recent consultations between the Governments of the United States and Qatar, the United States Government has decided to control imports in these categories for the period beginning on July 28, 1992 and extending through July 27, 1993 at a level of 326,241 dozen.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Qatar, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 36639, published on August 14, 1992.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 19, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 347/348, produced or manufactured in Qatar and exported during the period beginning on July 28, 1992 and extending through July 27, 1993, in excess of 326,241 dozen [1].

Textile products in Categories 347/348 which have been exported to the United States prior to July 28, 1992 shall not be subject to the limit established in this directive.

Textile products in Categories 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-27784 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after July 27, 1992.

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

November 10, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 24, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as no agreement was reached on a mutually satisfactory solution on Categories 341/641 during recent consultations between the Governments of the United States and Qatar, the United States Government has decided to control imports in these categories for the period beginning on September 24, 1992 and extending through September 23, 1993 at a level of 100,089 dozen.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in further consultations with the Government of Qatar, notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 46847, published on October 13, 1992.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 24, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 341/641, produced or manufactured in Qatar and exported during the period beginning on September 24, 1992 and extending through September 23, 1993, in excess of 100,089 dozen [1].

Textile products in Categories 341/641 which have been exported to the United States prior to September 24, 1992 shall not be subject to the limit established in this directive.

Textile products in Categories 341/641 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-27785 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DR-F

Amendment of Export Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

November 10, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements to require manufacturer's identification.

EFFECTIVE DATE: November 16, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the Government of Romania is being amended, for goods produced or manufactured in Romania and exported from Romania on and after November 16, 1992, to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be provided on the textile visa document.

The name and address of the company should be placed somewhere on the front of the original export visa document, not within the visa stamp. It should be preceded by the label "manufacturer's identification" or "M.I.D." The name is the full name of the company which performs the substantial part of the manufacturing of the product. The address should include the street name or P.O. Box number (if available), and the city and/or province where the manufacturing occurs. In the case of a shipment covered by a single export visa document containing products which are each manufactured by a number of different companies, the name and address of each company involved should be listed on the export visa document. If additional space is needed for listing the name and address of the firms, the back of the export visa document may be used. Responsible officials will make their best efforts to determine the name and address of a firm or firms which best meet the basic criterion of being an actual manufacturer of the product. This information should appear on the export visa document prior to export from Romania. However, for goods exported during the period November 16, 1992 through December 16, 1992, the importer may type this required information on the front of the original visa document. For goods exported on or after December 16, 1992 without the M.I.D. on the export visa document, a new visa containing this information must be obtained.

See 49 FR 493, published on January 4, 1984.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 29, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania which were not properly visaed by the Government of the Republic of Romania.

Effective on November 16, 1992, for goods produced or manufactured in Romania and exported from Romania on and after November 16, 1992, you are directed to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be placed on the textile visa document. This information shall appear on the export visa document prior to export from Romania. However, for goods exported during the period November 16, 1992 through December 16, 1992, the importer may type this required information on the front of the original visa document.

Shipments entered for consumption, or withdrawn from warehouse for consumption according to this directive which are not accompanied by an appropriate export visa which includes the identification of the manufacturer on the visa document shall be denied entry and a new visa containing this information must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-27783 Filed 11-16-92; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after September 23, 1992.

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of Defense Intelligence College Board of Visitors

AGENCY: Defense Intelligence Agency Defense Intelligence College, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College Board of Visitors has been scheduled as follows:

DATES: Thursday, 3 December 1992, 0900 to 1700; and Friday, 4 December 1992, 0830 to 1400.

ADDRESSES: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT: General Charles J. Cunningham, Jr., Lieutenant General, USAF (Ret), Commandant, DIA Defense Intelligence

College, Washington, DC., 20340–5485 (202/373–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Defense Intelligence College.

Dated: November 12, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–27808 Filed 11–16–92; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers, Department of the Army

Intent To Prepare A Supplemental Environmental Impact Statement (SEIS) for the Nassau County, FL, Shore Protection Project

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Supplemental Environmental Impact Statement for the Nassau County Shore Protection Project. The authorized project provides for the initial restoration of 3.6 miles of eroded beach on Amelia Island, Florida; and periodic nourishment of 4.3 miles of shore. Sand for the beach fill would come from an area within the entrance channel of the St. Mary's River. Because of changed conditions the project is being re-evaluated as discussed below.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and SEIS can be answered by: Mr. Michael Dupes, (904) 232–1689, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: 1. The Shore protection Project for Nassau County, Florida, was authorized by the Water Resources Development Act of 1988 (Pub. L. 100–676). A Final Environmental Impact Statement (FEIS) was published in March 1985. The FEIS addressed the alternative methods of accomplishing the project goals and the impacts associated with those alternatives. The local sponsor for the project is Nassau County. The condition of the project shoreline which existed during preparation of the FEIS has changed significantly since project authorization. The St. Mary's River entrance channel, which was originally to be the source of the borrow material for the project, was deepened in 1988. Maintenance dredging of the channel is now required every year, with beach quality material removed every other year and placed on the beaches of northern Amelia Island. The additional material on the beach has changed the existing conditions upon which the storm damage reduction benefits are based. A General Re-evaluation Report (GRR) will be prepared to evaluate the project based on the present condition of the shoreline. At the request of the non-Federal sponsor, extending the project to the south will also be investigated. In addition, the quantity of beach quality material within the entrance channel will not be adequate to accomplish the initial construction of the project. For that reason, other borrow areas are being investigated. A Supplement to the Environmental Impact Statement will be prepared to address the environmental impacts of any proposed modifications to the project. Environmental considerations will include potential presence of historical or archeological resources, aesthetics, endangered or threatened species and nearshore marine habitats.

2. Scoping: The scoping process will involve Federal, State, and local agencies, and other interested persons and organizations. A scoping letter (October 21, 1992) has been sent to interested Federal, State, and local agencies requesting their comments and concerns. Any persons and organizations wishing to participate in the scoping process should contact the Corp of Engineers at the above address. Significant issues that are anticipated include concern for fisheries, water quality, and endangered and threatened species. Consultation with the State Historic Preservation Officer (SHPO) during the development of the FEIS indicated that historical and archaeological resources may be present in the project area. Further coordination with the SHPO will occur during the preparation of the SEIS.

3. Coordination with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service will be accomplished in compliance with section 7 of the Endangered Species Act. Coordination required by applicable Federal and State laws and policies will be conducted. Since the project will require the discharge of material into waters of the United States, the discharge will comply with the provisions of section 404 of the Clean Water Act as amended.

4. SEIS Preparation: It is estimated that the draft SEIS will be available to the public in November 1993.

Dated: October 28, 1992.

A.J. Salem,

Chief, Planning Division.

[FR Doc. 92–27819 Filed 11–16–92; 8:45 am]

BILLING CODE 3710–AJ–M

Department of the Navy

Revised Record of Decision to Realign Fleet Support Functions from Naval Station Puget Sound, Sand Point, to Naval Station Puget Sound, Everett

Pursuant to the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500–1508), the Department of the Navy announces its decision to revise the Record Of Decision published in the **Federal Register** (56 FR 33023, July 18, 1991) for realignment of fleet support functions from Naval Station Puget Sound (NSPS) Sand Point to NSPS Everett.

The proposed action is the realignment of fleet support functions from NSPS Sand Point to NSPS Everett. Implementation of this action requires relocating fleet support facilities to an offsite location because NSPS Everett cannot accommodate them. The facilities identified for relocation include the commissary/exchange complex (which includes the vehicle service station and garage, coffee shop, thrift shop, tailor shop, country store, class VI store, and associated storage), Credit Union, Education Services Office, Auto Hobby Shop, Family Service Center, Arts and Craft Shop, and some security and administrative functions. In addition, a chapel/religious center, bachelors officers' quarters, child development center, educational services/library, outdoor recreation fields, and fleet deployment parking will be constructed at this site.

The original Record Of Decision declared that this relocation would be to a site located about seven miles north of NSPS Everett, and about two miles northwest of Marysville, within the Tulalip Indian Reservation. This site (Alternative 2) was selected from among three alternatives and, at the time of the Record Of Decision, was considered the environmentally preferred site. The 60-acre site identified as Alternative 1 in the Final Environmental Impact Statement (FEIS) was essentially the lower half of the 128-acre triangularly shaped Smokey Point Commerce Center parcel. In the time since the FEIS was filed, the owner of the Smokey Point site

has undertaken several actions to mitigate the impacts identified in the FEIS. As a result of these actions, the owner has received a Mitigated Determination of Non-Significance under the Washington State Environmental Policy Act for development of an industrial park. The issues mitigated as part of the State environmental review were wetlands, stream relocation, surface water quality, and storm water management.

In light of these changes, the Navy has determined that Alternatives 1 and 2 are now equally acceptable from both environmental and operational perspectives. The only remaining outstanding issue is that of negotiating ability to purchase, i.e., price and timing, with respective land owners. It is, therefore, the Navy decision to develop, as necessary to implement the realignment, the site that is ultimately purchased. A more detailed description of the changed and mitigating conditions at the Smokey Point site are presented below.

This Revised Record Of Decision will become effective December 17, 1992. Written comments or requests for additional information regarding this Revised Record Of Decision may be sent to: Commanding Officer, Engineering Field Activity Northwest, Naval Facilities Engineering Command, 3505 Anderson Hill Road NW., Silverdale, Washington 98383 (Attn: Mr. Don Morris), telephone (206) 476–5773.

1.0 Background Summary

The realignment of NSPS Sand Point to NSPS Everett is being conducted in compliance with the Base Realignment and Closure Act of 1988. The Navy distributed a Draft Environmental Impact Statement for the realignment action on October 10, 1990, and held public hearings on November 7, 1990, in Everett and on November 8, 1990, in Seattle. An FEIS was distributed May 24, 1991. Three sites met the Navy's criteria to support this realignment of offsite facilities. They were studied in detail during the EIS process and are summarized below.

Alternative 1, as identified in the FEIS, is a 60-acre, triangularly shaped site located about nine miles northeast of NSPS Everett in Snohomish County. The site has been in agricultural use and is zoned for industrial use. The EIS did not identify this site as a preferred alternative because of potential conflicts in land use, the need to avoid impacts on wetlands, the need for extensive road improvements, and the potential impacts of traffic and noise. Alternative 2, as identified in the FEIS, is a 60-acre rectangularly shaped site located about seven miles north of NSPS Everett, and about two miles northwest of Marysville, within the Tulalip Indian Reservation. This site is wooded, has been partially harvested, and is planned for business park development. This alternative was chosen for implementation because the key environmental impacts, which related to groundwater, fisheries, and a heron rookery, could all be mitigated by careful site design. Alternative 3, as identified in the FEIS, is an elongated rectangularly shaped site located about four miles south of NSPS Everett, and about 1.5 miles northeast of Paine Field, within the City of Everett. The site had been used for gravel extraction and is planned for business park development. This alternative was eliminated from final consideration because of serious environmental and public concerns regarding incompatible land use, the need for extensive and possibly undesirable road improvements, air quality impacts, and impacts on police and fire protection service response times.

The selection of the Alternative 2 site as the preferred alternative was predicated on the implementation of several mitigation measures. The mitigation measures that would be implemented as part of the action related to hydrology and the protection of groundwater, air pollution control measures, and participation in a Transportation Demand Study with federal, state, and local agencies to determine project impacts on traffic, public transportation, and roads and the resulting apportionment of mitigation funding. Mitigation measures for the Alternative 2 site would also include construction of a wastewater treatment facility if connection to the City of Marysville sewage system is not available.

2.0 Alternative 1—Update Since the FEIS

Site Configuration

The existing internal configuration and availability to the Navy of buildable parcels on the Smokey Point site are the result of extensive wetlands mitigation and new stream channelization which were implemented by the site owner. The proposed Navy development would be located to the west of 45th Avenue NE, with the exception of Parcel 22. All of the proposed program element buildings and the recreation fields would be situated on the west side of 45th Avenue NE. The lot to the east of 45th Avenue NE (Parcel 22) would be devoted to fleet deployment parking only. This configuration avoids a detention pond and wetland areas which will remain on the site and it further separates the buildings and activity areas from neighboring residential areas to the east of the site (see discussion of land use and noise below).

Although the original FEIS addressed primarily the Navy 60-acre development plan, the environmental issues associated with development of the entire 128-acre Smokey Point Commerce Center have been reviewed in an environmental checklist submitted to Snohomish County under the Washington State Environmental Policy Act. The Navy would plan to maintain its development program within the site boundaries of the Smokey Point Commerce Center.

Infrastructure and Utilities

The owner has completed infrastructure improvements for the entire 128-acre Smokey Point Commerce Center. These infrastructure improvements include: Streets with curbs, gutters and sidewalks; roadway lighting; and complete water and sewage systems connecting to those of the City of Marysville; and other utility installations including gas, electric power, and fiber optic telephone lines. The roadway improvements also include landscaping and hydroseeding of all disturbed areas. A master storm drainage system which includes biofiltration swales and detention ponds was incorporated into the roadway design and has been installed.

Wetlands

The wetlands impact issues, which were a concern in the original FEIS, have been resolved with the preparation and implementation of a wetlands mitigation and enhancement plan which was approved and accepted by the Corps of Engineers and Snohomish County. Mitigation measures are now in place. The stream which followed the western boundary of the property has been rechanneled through the southern portion of the site. In addition to the preserved wetland areas, additional wetland areas have been created which exceed the fill areas by a replacement ratio of greater than two to one. The approved wetlands mitigation program and plan on file with Snohomish County includes a three year monitoring period. In order to be released from regulatory purview, at the end of this three year period the mitigation areas are required to have a 90 percent area coverage of self-sustaining wetland vegetation.

Soils and Groundwater

Soil samples taken from the Smokey Point site have shown the presence of arsenic. Although generally in low concentrations, some of the samples have shown concentrations which exceed the Maximum Contaminant Level established by the United States Environmental Protection Agency (U.S. EPA) of 50 parts per billion (50 ppb). This occurrence of arsenic is not unusual in this area of Snohomish County nor is it exclusive to this site. Numerous wells in communities at the foothills of the Cascade Range show unusually high concentrations of naturally occurring arsenic. Groundwater arsenic will not effect potable water supplies to the site because water to the project site will be provided by the City of Marysville's system rather than from wells.

Traffic

The Smokey Point site falls within a traffic improvement district for which an FEIS, prepared by Snohomish County in compliance with the Washington State Environmental Policy Act, has been completed. This FEIS described a proposed action in five phases for the upgrading of roads, freeway interchanges and signalization. This project will widen and make other improvements to several existing roads in the North Marysville/Smokey Point area and would also construct one new road (40th Avenue NE). When the project is complete, the main north-south boulevard as well as the arterial connection to Interstate Highway 5 (I–5) will be five lanes with curbs, gutters, sidewalks, street lighting, and enclosed drainage. The extension of 40th Avenue NE to 142nd Place NE, which runs along the northern edge of the site, will be three lanes with open ditches. The estimated costs for these improvements is approximately $20 million. As mitigation for traffic impacts and funding for these traffic improvements, Snohomish County had established a one time fee for new development based on the number of estimated daily trips generated by the site. The amount proposed by Snohomish County was $172 per trip. Currently, based on the estimated trip generations, Snohomish County may also require improvements for intersections at Level of Service "E" or below. For the Average Daily Trip generation, it has been estimated that the realigned offsite facilities will generate 10,150 vehicle trips daily, with roughly 1,055 of them occurring in the evening peak hour. As with the previously selected site (Alternative 2), mitigation measures for Alternative 1 will include participation in a Transportation Demand Management Plan study with federal, state, and local agencies to better quantify project impacts on traffic, public transportation, roads, and mitigation apportionment. The Navy will conform to mitigation measures identified in the Transportation Demand Management Plan and will assure conformity with Washington State Implementation Plan requirements, including standards for carbon monoxide. The Navy will also coordinate these efforts with the Regional Office of the U.S. EPA.

Land Use

The project uses of the site are permitted outright in all industrial zones of Snohomish County. All of the land west of the Alternative 1 site to Smokey Point Boulevard and to I–5 is zoned for industrial use. Because the proposed uses are high activity generators, any road widenings that may be needed to accommodate project generated traffic could impact some residential uses, although the principal direction of these road widenings would be westerly where the number of residences is low.

Noise

Noise increases due to construction, increased traffic, and operations could have a small effect on ambient noise levels in the vicinity of the site. However, the configuration of the Navy development within the Smokey Point Commerce Center will reduce the potential for impact on the ambient noise levels in the adjacent residential areas because all of the buildings (including the auto hobby shop) and recreation fields will be on the west side of 45th Avenue NE, where these noise generators will be over 700 feet from residential areas. The single parcel east of the 45th Avenue NE will be used for fleet deployment parking only; thus, its contribution to traffic generated noise will be limited and on an occasional basis only. While noise control and traffic reduction measures will partially mitigate these impacts, a general increase in the ambient noise level are an unavoidable result of any development.

The Navy believes that because of infrastructure improvements which have been completed on the Smokey Point site (Alternative 1), the critical issues identified in the FEIS have been sufficiently mitigated so as to consider the Alternative 1 site as being equally preferred to that of the Alternative 2 site for the NSPS Everett offsite facilities relocation. The Navy further believes there are no outstanding issues to be resolved with respect to this project.

Dated: November 6, 1992.

Jacqueline E. Schafer,

Assistant Secretary of the Navy, (Installations and Environment).

Dated: November 12, 1992.

Michael P. Rummel,

LCDR, JAGC, USN,

Federal Register Liaison Officer.

[FR Doc. 92–27811 Filed 11–16–92; 8:45 am]

BILLING CODE 3810–AE–M

Notice of Intent To Prepare an Environmental Impact Statement for Solid Waste Disposal for U.S. Naval Station Roosevelt Roads, Puerto Rico

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of solid waste disposal for U.S. Naval Station (NAVSTA) Roosevelt Roads, Puerto Rico.

The existing sanitary landfill at NAVSTA Roosevelt Roads accepts nonhazardous solid waste generated at the station as well as solid waste from in-port ships. This landfill began receiving wastes in the 1960s and was expanded in 1987. The landfill is nearing its capacity. Recent changes to regulations concerning siting and operation of sanitary landfills make expansion of the existing landfill infeasible. Therefore, the Navy is seeking to dispose of solid waste at another site that would be operated in compliance with the new regulations.

Alternatives that will be addressed in the EIS include no action, use of an existing municipal landfill, use of a privately operated landfill, and establishment of a new landfill on NAVSTA Roosevelt Roads.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this action. Agencies and the public are invited and encouraged to provide written comment to identify environmental concerns that should be addressed during the preparation of the EIS. Comments and/or questions regarding the scoping process should be mailed no later than (*Insert date 30 days after date of publication in the* **Federal Register**) to Commander, Atlantic Division, Naval Facilities Engineering Command, Norfolk, VA 23511–6287.

Attn: Mr. Ron Dudley (Code 203), telephone (804) 445–2306.

Dated: November 12, 1992.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 92–27810 Filed 11–16–92; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Strategic Petroleum Reserve; Availability of Draft Environmental Impact Statement on the Expansion of the Strategic Petroleum Reserve

AGENCY: Strategic Petroleum Reserve (SPR), Department of Energy (DOE).

ACTION: Notice of availability of draft environmental impact statement (DEIS) and notice to conduct public hearings on the DEIS.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Environmental Impact Statement (DOE/EIS–0165–D) on the proposed plan for the final 250-million-barrel increment of a one-billion-barrel Strategic Petroleum Reserve (SPR) pursuant to Congressional directive (Pub. L. 101–383 and Pub. L. 101–512). The plan would be to develop underground crude oil storage facilities in two Gulf Coast salt domes. Five salt domes located in Louisiana, Mississippi, and Texas are under consideration. In addition, various crude oil distribution alternatives could require the construction and operation of pipelines and terminals in the above three States and Alabama.

Comments on the content of the DEIS are invited from interested persons, organizations, and agencies. Public hearings will be held at locations near each of the five alternative sites evaluated in the DEIS.

DATES: Written comments to the DOE should be postmarked by December 29, 1992, to ensure consideration in preparation of the final EIS. Oral comments will be accepted at the public hearings to be held on December 1, 3, 8, 10, and 15, 1992 (schedule and locations given below). Individuals desiring to make oral statements at a hearing should notify the DOE no later than one week prior to the hearing so that the DOE may arrange a schedule for presentations.

ADDRESSES: Requests for copies of the three-volume DEIS, requests to present oral comments at the hearings, and requests for further information concerning this DEIS may be directed to: Mr. Hal Delaplane, Strategic Petroleum Reserve, FE–423, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Requests for copies of the DEIS will also be accepted by telephone at 703–934–3320. Requests to present oral comments at the hearings will also be accepted by facsimile at 703–934–9740 (Attention: DOE Public Hearing, Deborah Shaver). For general information on the procedures followed by the DOE in complying with the requirements of the National Environmental Policy Act (NEPA), contact: Carol Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202–586–4600 or 800–472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The SPR was created in 1975 to provide the United States with sufficient petroleum reserves to reduce the impacts of any future oil supply interruption and to carry out the obligations of the United States under the International Energy Program.

The SPR currently has 750 million barrels of storage capacity among five coastal salt domes in Texas and Louisiana and a marine terminal on the Mississippi River at St. James, Louisiana. One of the storage facilities, Weeks Island in Iberia Parish, Louisiana, was a conventional room-and-pillar salt mine before the DOE converted it to oil storage. Storage capacity at the other facilities, Bryan Mound and Big Hill in Texas and Bayou Choctaw and West Hackberry in Louisiana, was developed by solution mining (or leaching).

At leached facilities, caverns were created by pumping water into boreholes drilled into the salt and displacing the resulting concentrated salt solution (or brine). Six to seven barrels of brine are produced for each barrel of storage space created. Brine disposal was accomplished principally by brine discharge into the Gulf of Mexico. In addition, a limited amount of brine disposal was by underground injection into saltwater-bearing formations near the salt domes.

Upon completion, caverns are filled with oil as the remaining brine is displaced. Oil is delivered to the site from coastal terminals by pipeline. When oil is needed for use, it can be removed from caverns by displacement with water or saturated brine. Development of facilities for the 750-million-barrel SPR was completed in September 1991.

To expand the SPR by 250 million barrels, the DOE would develop two new storage facilities in the Gulf Coast salt domes. Five candidate sites are being considered. These are: Cote Blanche in St. Mary Parish, Louisiana; Weeks Island in Iberia Parish, Louisiana; Richton in Perry County, Mississippi; Big Hill in Jefferson County, Texas; and Stratton Ridge in Brazoria County, Texas. Further, crude oil fill and distribution systems would require new pipelines and terminal facilities that could involve the preceding five counties and parishes as well as the following: Mobile County, Alabama; Vermilion, St. Martin, Assumption, and St. James Parishes, Louisiana; Amite, Pike, Walthall, Marion, Lamar, Forrest, Jones, Greene, George, and Jackson Counties, Mississippi; and Chambers and Harris Counties, Texas. At this time, the DOE has not determined a preference among the alternative sites and alternative distribution capabilities and configurations.

At each of the new storage facilities, the development of oil storage capacity would require a 200 to 300-acre site on the surface of the salt dome and 9 to 16 10-million-barrel caverns 2,000 to 5,000 feet below ground. At Big Hill, new storage capacity would be developed contiguous to the existing 160-million-barrel facility. The expansion would use the existing raw water intake, brine disposal and crude oil distribution systems. For the other candidate sites, including Weeks Island, development would require construction of all the brine, water, and oil handling systems, surface structures, and buildings.

For the 250-million-barrel expansion project, cavern creation would entail the consumptive use of about two billion barrels of surface water and would generate about two billion barrels of brine. For each of the new storage facilities, the process flow rates for leaching would be up to 1.1 million barrels per day each for water and brine for a period of three to four years. The brine would be disposed of primarily by ocean discharge and alternatively by deep underground injection.

II. EIS Preparation

The DOE published a Notice of Intent to Prepare an Environmental Impact Statement (56 FR 20417) on May 3, 1991. The scoping process included public meetings held June 4, 1991, in Lake Jackson, Texas, and June 6, 1991, in Thibodaux, Louisiana. Comments were considered in preparation of the DEIS.

The DEIS assesses and compares the impacts of siting, construction, and operation for the range of alternatives being considered and focuses on oil and brine spill risk and impacts of brine disposal, water and land use,

groundwater contamination, hydrocarbon emissions, and involvement with wetlands and floodplains.

III. Floodplains/Wetlands Notification

Pursuant to Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands, and to 10 CFR part 1022, Compliance with Floodplains/Wetlands Environmental Review Requirements, the DOE hereby provides notice that the construction and operation of three of the five alternative sites would be located in floodplains: Stratton Ridge, Texas, and Cote Blanche and Weeks Island, Louisiana. Construction and operation of crude oil storage facilities could impact wetlands at four of the five alternative sites: Stratton Ridge, Texas; Cote Blanche and Weeks Island, Louisiana; and Richton, Mississippi. Off-site pipelines and related facilities associated with all five alternative sites could affect floodplains and wetlands in all 22 counties and parishes that could be involved.

DOE will prepare a floodplain and wetlands assessment for this proposed action. Implementation of this action would be in a manner so as to avoid or minimize potential harm to or within these affected floodplains and wetlands. The potential environmental impacts of site selection on these floodplains and wetlands are discussed in chapter 7 and Appendices B and P of the DEIS. Any comments regarding the proposed plan's impact on floodplains and wetlands may be submitted to DOE in accordance with procedures described below. The assessment and a floodplain statement of findings will be included in the Final EIS.

IV. Comment Procedures

A. Availability of DEIS: Copies of the DEIS are available for inspection at the DOE's reading rooms and at the information repositories in the vicinity of each of the five alternative sites. The locations where the DEIS may be found are as follows:

1. DOE Reading Rooms
   —Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585
   —SPR Project Management Office (c/o Mike Farley), 900 Commerce Road East, New Orleans, Louisiana 70123
2. Information Repositories

a. Texas
   —Brazoria County Library, 401 East Cedar, Angleton, Texas 77515
   —Beaumont Public Library, 801 Pearl Street, Beaumont, Texas 77701

b. Louisiana
   —Allen J. Ellender Memorial Library, Leighton Drive, Nicholls State University, Thibodaux, Louisiana 70310
   —Dupre Library, 302 East St. Mary Blvd., University of Southwestern Louisiana, Lafayette, Louisiana 70504

c. Mississippi
   —Library of Hattiesburg, 723 North Main Street, Hattiesburg, Mississippi 39401
   —Pascagoula Public Library, 3214 Pascagoula Street, Pascagoula, Mississippi 39567

B. Written Comments: Interested parties are invited to provide comments on the content of the DEIS to the DOE at the above address. Envelopes should be marked "Attention: SPR DEIS Comments." Comments should be postmarked no later than December 29, 1992, to ensure consideration in preparing the final EIS. Comments postmarked after December 29, 1992, will be considered to the extent practicable. Comments will not be accepted by telephone.

C. Public Hearings:

1. Participation Procedure: The public is also invited to provide comments on the DEIS to the DOE at the scheduled public hearings. The purpose of the hearings is to receive substantive comments related to the DEIS. The hearings will not be judicial or evidentiary-type proceedings.

Persons who wish to speak at a hearing are advised to preregister by mail or by facsimile at the address or telephone number listed above. Preregistration requests will be accepted up to one week prior to the hearing. A separate request is required for each speaker. Registrants should confirm the time they are scheduled to speak at the registration desk at the hearing. Persons who have not preregistered may register at the door and will be accommodated on a first-come, first-served basis to the extent time allows. To ensure that as many persons as possible have the opportunity to speak, five minutes will be allotted to each. Additional sessions will be held after the scheduled date if the number of preregistrants indicates that there may be more persons wishing to speak than can be accommodated in the time available. Additional sessions will be announced prior to and at the scheduled hearings. Speakers are encouraged to provide the DOE with written copies of their comments at the hearing. In addition, persons at the hearing may submit written comments in lieu of speaking. Written comments will receive the same weight in the hearing record as oral comments.

2. Hearings Schedules and Locations: Hearings will be held from 7 to 10 p.m. at each of the following locations on the dates indicated:

December 1, 1992
   C.E. Roy Center, 300 East 5th Street, Hattiesburg, Mississippi

December 3, 1992
   Fair Hall, Hospital Road at Short Cut Road, Pascagoula, Mississippi

December 8, 1992
   Brazosport College, Room L-102, 500 College Drive, Lake Jackson, Texas

December 10, 1992
   John Gray Institute, Lamar University Library, 855 Florida Avenue, Beaumont, Texas

December 15, 1992
   New Iberia High School Auditorium, 1301 East Admiral Doyle Drive, New Iberia, Louisiana

3. Conduct of Hearings: DOE's basic rules and procedures for conducting the hearings will be announced by the presiding officer at the start of the hearings. Clarifying questions regarding statements made at the hearings may be asked only by DOE personnel conducting the hearings. There will be no cross-examination of persons presenting statements. A transcript of the hearings will be prepared, and the entire record of each hearing, including the transcript, will be retained by the DOE for inspection at information repositories and DOE reading rooms listed above.

Issued in Washington, DC on November 10, 1992.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92-27845 Filed 11-12-92; 3:45 pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 10081]

Tuolumne County, Turlock Irrigation District; Intent to Prepare a Joint Environmental Impact Statement/ Environmental Impact Report and Conduct Public Scoping Meetings

November 10, 1992.

The Federal Energy Regulatory Commission (FERC) has received an application for license for the construction of the Clavey River hydropower project, FERC No. 10081. The hydropower project would be located on the Clavey River in California.

The FERC staff has determined that licensing this project would constitute a

major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the hydroelectric project in accordance with the National Environmental Policy Act. The Bureau of Land Management, Forest Service, Corps of Engineers, California State Water Resources Control Board (WRCB), and Turlock Irrigation District (TID) will be cooperating agencies in the preparation of the EIS.

TID, as the state public agency with the principle state responsibility for carrying out and approving the Clavey River Project, is the state lead agency charged under the California Environmental Quality Act (CEQA) with the responsibility for preparation on an Environmental Impact Report (EIR). The WRCB will act as a responsible agency for the CEQA process. TID and WCRB will fulfill their CEQA responsibilities in part by participating actively in the scheduled scoping meetings and providing comments on the draft EIS/EIR when that document is released for public comment.

All agencies, organizations and members of the public electing to exercise their right to comment on the scope and content of the EIR under the CEQA guidelines (sections 15082, 15083, 15086, 15087) should participate directly in the Joint EIS/EIR process conducted by FERC as the lead agency under NEPA.

The EIS/EIR will objectively consider both site specific and cumulative environmental impacts of the project and its reasonable alternatives, and will include the economic, financial and engineering analysis.

A draft EIS/EIR will be issued and circulated for review by all the interested parties. All comments filed on the draft EIS/EIR will be analyzed by the staff and considered in a final EIS/EIR. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Because TID will not participate in any internal administrative review of the joint EIS/EIR prepared, TID will independently review and analyze that document to ensure and verify its adequacy and objectivity. Appropriate notice and opportunity to comment will be given prior to the time TID determines whether it will adopt, with or without modification or supplement the environmental document prepared and finalized by FERC. Comments related to TID's environmental action will be reviewed prior to taking any final action pursuant to CEQA.

Scoping Meetings

Two scoping meetings will be conducted on Tuesday, December 15, 1992. A scoping meeting oriented toward resource agencies will be conducted from 1 p.m. to 4 p.m., in the Stanislaus/Tuolumne Conference Room, Stanislaus National Forest Supervisor's Office, 19777 Greenley Road, Sonora, California. A scoping meeting oriented toward the public will be conducted by staff from 7 p.m. to 10 p.m., at the Mother Lode Fairgrounds, Sierra Building, 220 Southgate Drive, Sonora, California. Interested individuals, organizations, and agencies are invited to attend either or both meetings and assist the staff in identifying the scope of environmental issues that should be analyze in the EIS/EIR.

To help focus discussions, a preliminary scoping document outlining subject areas to be addressed at the meeting will be distributed by mail to interested parties on the FERC mailing list. Prior to the scoping meetings, TID will also prepare and distribute a notice of preparation of an EIR, describing the proposed project, the project location and probable environmental effects of the project. Copies of the preliminary scoping documents and notice of preparation will also be available at the scoping meetings.

Objectives

At the scoping meetings the staff and TID will: (1) Summarize the environmental issues tentatively identified for analysis in the planned EIS/EIR; (2) solicit from the meeting participants all available information, especially quantified data, on the resources at issue, (3) encourage statements from experts and the public on issues that should be analyzed in the EIS/EIR, including points of view in opposition to, or in support of, the staff's preliminary views, (4) determine the relative depth of analysis for issues to be addressed in the EIS/EIR, and (5) identify resource issues that are not important and do not require detailed analysis.

Procedures

The meetings will be recorded by a court reporter and all statements (oral and written) thereby become a part of the formal record of the Commission proceedings on the Clavey River Project. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EIS/EIR.

Participants wishing to make oral comments at the public meeting are asked to keep them to five minutes to allow everyone the opportunity to speak.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, until January 20, 1993.

All correspondence should clearly show the following caption on the first page: Clavey River Project, California, Project No. 10081.

All those that are formally recognized by the Commission as interveners in the Clavey River Project proceeding are asked to refrain from engaging the staff or its contractor in discussions of the merits of the project outside of any announced meetings.

Further, parties are reminded of the Commission's Rules of Practice and Procedure, which require parties (as defined in 18 CFR 385.2010) filing documents with the Commission, to serve a copy of the document on each person whose name is on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information please contact Thomas Camp at (202) 219-2832

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27804 Filed 11-16-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER92-849-000]

Wheelabrator Falls Inc.; Issuance of Commission Order

November 10, 1992.

On September 22, 1992, Wheelabrator Falls Inc. (WF) submitted for filing with the Commission an agreement providing for the sale of capacity and energy from WF's 48.1 MW biomass-fueled qualifying facility to Public Service Electric and Gas Company. WF's filing also requested waiver of various Commission regulations. In particular, WF also requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by WF.

On October 26, 1992, pursuant to delegated authority, the Director.

Division of Applications, Office of Electric Power Regulation, granted the requests for blanket approval under 18 CFR part 34, subject to the following:

Within thirty (30) days of the date of this order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by WF should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, WF is authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person, provided that said issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of WF's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 25, 1992.

Copies of the full text of the order are available from the Commission's Public Reference Branch, room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-27769 Filed 11-16-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation of Renewable Energy

[Case No. F-055]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Armstrong Air Conditioning, Inc.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-55) granting a Waiver to Armstrong Air Conditioning, Inc. (Armstrong) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Armstrong its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its EG6H, EG7H, and EDG6H series of condensing furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-431, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Armstrong has been granted a Waiver for its EG6H, EH7H, and EDG6H series of condensing furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, November 10, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Decision and Order

In the Matter of: The Armstrong Air Conditioning, Inc. (Case No. F-055)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide material inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Armstrong filed a "Petition for Waiver," dated July 23, 1992, in accordance with § 430.27 of 10 CFR part 430. DOE published in the **Federal Register** on September 17, 1992, Armstrong's petition and solicited comments, data and information respecting the petition. 57 FR 42990. Armstrong also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on September 10, 1992. 57 FR 42990, September 17, 1992.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." DOE consulted with The Federal Trade Commission (FTC) concerning the Armstrong Petition. The FTC did not have any objections to the issuance of the waiver to Armstrong.

Assertions and Determinations

Armstrong's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between

the ignition of the burner and the starting of the circulating air blower. Armstrong requests the allowance to test using a 30-second blower time delay when testing its EG6H, EG7H, and EDG6H series of condensing furnaces. Armstrong states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 1.3 percent. the petition should be granted.

Under specific circumstances, the DOE test procedure contain exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Armstrong indicates that it is unable to take advantage of any of these exceptions for its EG6H, EG7H. and EDG6H series of condensing furnaces.

Since the blower controls incorporated on the Armstrong furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Armstrong EG6H, EG7H, and EDG6H series of condensing furnaces. Accordingly, with regard to testing the EG6H, EG7H, and EDG6H series of condensing furnaces, today's Decision and Order exempts Armstrong from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, Therefore, ordered That:

(1) The "Petition for Waiver" filed by Armstrong Air Conditioning, Inc. (Case No. F-055) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4). and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Armstrong Air Conditioning, Inc. shall be permitted to test its EG6H, EG7H, and EDG6H series of condensing furnaces on the basis of the test procedure specified in 10 CFR part 430. with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3 2. and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE 103-82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Armstrong Air Conditioning, Inc. shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the EG6H, EG7H, and EDG6H series of condensing furnaces manufactured by Armstrong Air Conditioning, Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective November 10, 1992, this Waiver supersedes the Interim Waiver granted the Armstrong Air Conditioning, Inc. on September 10, 1992. 57 FR 42990, September 17, 1992 (Case No. F-055).

Issued in Washington, DC, November 10, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-27844 Filed 11-16-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPT-51809; FRL-4176-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 23 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93-66, 93-67, 93-68, 93-69, 93-70, 93-71, 93-72, 93-73, January 18, 1993.

P 93-74, 93-75, 93-76, 93-77, 93-79, January 20, 1993.

P 93-80, 93-81, 93-82, 93-83, January 23, 1993.

P 93-84, January 25, 1993.

P 93-85, 93-86, January 26, 1993.

P 93-95, January 27, 1993.

P 93-96, January 29, 1993.

P 93-97, January 30, 1993.

Written comments by:

P 93-66, 93-67. 93-68, 93-69, 93-70, 93-71, 93-72, 93-73, December 19, 1992.

P 93-74, 93-75, 93-76, 93-77. 93-79, December 21, 1992.

P 93-80, 93-81, 93-82. 93-83, December 24, 1992.

P 93-84, December 26, 1992.

P 93-85, 93-86, December 27, 1992.

P 93-95. December 28. 1992.

P 93-96. December 30, 1992.

P 93-97. December 31. 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPT-51809)" and the specific number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–66

Manufacturer. The Dow Chemical Company.

Chemical. (G) Mannich based adduct.

Use/Production. (S) Polyol initator. Prod. range: Confidential.

P 93–67

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified polyether polyol.

Use/Production. (S) Polyol for rigid polyurethane foam. Prod. range: Confidential.

P 93–68

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified polyether polyol.

Use/Production. (S) Polyol for rigid polyurethane foam. Prod. range: Confidential.

P 93–69

Manufacturer. Confidential.

Chemical. (G) Fatty acids esters.

Use/Production. (S) Substance function as a lubricant in metal forming fluid aluminum cans. Prod. range: Confidential.

P 93–70

Importer. Ciba-Geigy Corporation.

Chemical. (G) Disubstituted phthalamide.

Use/Import. (S) Cuuring agent for casting systems for chemical resistant equipment. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Static acute toxicity: time LC50 96H > 20 mg/l species (zebra fish). Skin irritation: slight species (rabbit). Mutagenicity: negative. Skin sensitization: positive species (guinea pig).

P 93–71

Importer. Confidential.

Chemical. (G) 4,4'-Bis(triazinylamino)slilbene-2,2'-disulfonic acid derivative.

Use/Import. (G) Fluoroscent whitening agent. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 16 g/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit).

P 93–72

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Azo substituted naphthalene disulfonic acid.

Use/Production. (S) Powder and liquid formulation of fiber reactive dye. Prod. range: 2,500–10,000 kg/yr.

P 93–73

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Azo substituted naphthalene disulfonic acid.

Use/Production. (S) Powder and liquid formulation of fiber reactive dye. Prod. range: 2,500–10,000 kg/yr.

P 93–74

Manufacturer. Basf Corporation.

Chemical. (G) Poly(acrylonitrile-styrene)copolymer.

Use/Production. (S) Polyurethane foams. Prod. range: Confidential.

P 93–75

Importer. Confidential.

Chemical. (G) Formaldehyde polymer.

Use/Import. (G) Coating for electronics part. Import range: Confidential.

P 93–76

Importer. Confidential.

Chemical. (G) Formaldehyde polymer.

Use/Import. (G) Coating for electronis part. Import range: Confidential.

P 93–77

Manufacturer. Confidential.

Chemical. (G) Modified acrylate polymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–79

Importer. Hoechst Celanese Corporation.

Chemical. (G) Polyurethane resin.

Use/Import. (S) Binder for paints. Import range: Confidential.

P 93–80

Manufacturer. Confidential.

Chemical. (S) Polyethylene glycol monomethyl ether of linseed fatty acid.

Use/Production. (G) Liquid paint. Prod. range: 12,500–25,000 kg/yr.

P 93–81

Manufacturer. Confidential.

Chemical. (G) Substituted phenol.

Use/Production. (S) A component of the material for IC fabrication. Prod. range: Confidential.

P 93–82

Importer. Confidential.

Chemical. (G) Ethylene copolymer.

Use/Import. (G) Modifier for polymer materials. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 93–83

Importer. Confidential.

Chemical. (G) Bis(alkylamino)-dichloro-dioxa-diazapentacene disulfonic acid.

Use/Import. (G) Dye for cotton. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rat). Mutagenicity: negative. Skin sensitization: positive species (guinea pig).

P 93–84

Manufacturer. Confidential.

Chemical. (S) Rosin. esters with triethylene glycol.

Use/Production. (S) Functions as a tackifier modifier,in hot melt packaging, pressure-sensitive and depilatory composition. Prod. range: Confidential.

P 93–85

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) Methacrylic acid, sodium salt, polymer with *N,N*-dimethylacrylamide.

Use/Production. (S) Viscosity modifier. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 2.0 g/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit).

P 93–86

Manufacturer. Minnesota Mining & Manufacturing Co., (3M).

Chemical. (S) 1,6 hexanediamine, *N,N,N',N'* -tetrapropyl.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93–95

Importer. Confidential.

Chemical. (G) Acrylic elastomer.

Use/Import. (G) Acrylic elastomer for industrial rubber parts. Import range: Confidential.

P 93-96

Manufacturer. Dow Chemical U.S.A.
Chemical. (G) Modified glycol ether ester.
Use/Production. (G) Hydraulic fluids. Prod. range: Confidential.

P 93-97

Manufacturer. Dow Chemical U.S.A.
Chemical. (G) Modified glycol ether ester.
Use/Production. (G) Hydraulic fluids. Prod. range: Confidential.

Dated: November 9, 1992

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-27839 Filed 11-16-92; 8:45 am]
BILLING CODE 6560-50-F

[OPPT-59315; FRL-4176-3]

Certain Chemicals; Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 93-3, November 29, 1992.

ADDRESSES: Written comments, identified by the document control number "[OPPT-59315]" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW, Rm. 201ET Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW, Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 93-3

Close of Review Period. December 13, 1992.
Manufacturer. Confidential.
Chemical. (G) Aliphatic polyamide.
Use/Production. (S) Hot Melt adhesive for bonding industrial parts. Prod. range: Confidential.

Dated: November 9, 1992.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-27840 Filed 11-16-92; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 9, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0485
Title: Amendment of part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6 (Third Report and Order)
Action: Revision of a currently approved collection
Respondents: Businesses or other for-profit (including small businesses)
Frequency of Response: Annual reporting requirement
Estimated Annual Burden: 40 responses; 2 hours average burden per response; 80 hours total annual burden.

Needs and Uses: In response to the comments filed pursuant to the Notice of Proposed Rulemaking (NPRM), in CC Docket No. 90-6, the Commission issued a Further Notice of Proposed Rulemaking (FNPRM) released 10/18/91. The FNPRM sought public comment on a number of issues including, proposed rules on a new method for determining the cellular geographic service area (CGSA) of cellular systems; allowing system expansion within the market during the five year fill-in period, without prior approval by the Commission; rules on payments of the withdrawal of petitions to deny or of applications; and limits on assignments and transfers of ownership interests in cellular applications for unserved areas. In the Second R&O, issued in this docket, the Commission adopted two proposals contained in the FNPRM: (1) The proposal to use a mathematical model for determining a CGSA; and (2) the proposal to allow certain modifications without prior authorization. The remaining issues from the FNPRM resolved in the attached Third R&O are: Whether to adopt new methods for calculating service provided in the Gulf of Mexico Statistical Area (GMSA) and over water areas in other markets; whether to limit the consideration that an applicant or a party may receive for agreeing to withdraw a mutually exclusive cellular application or a pleading, or to refrain for filing a pleading against a cellular application; and whether to prohibit the alienation of any ownership interest in an application for an unserved area. This Order also amends rules concerning the acceptance, processing, and granting of applications for unserved areas and other cellular filings. Brief summaries of the major issues and collections in the Third Order are provided.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-27743 Filed 11-16-92; 8:45 am]
BILLING CODE 6712-01-M

[PR Docket No. 92-190; DA 92-1506]

Private Land Mobile Radio Services; Austin Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for the Austin area (Region 49). As a result of accepting the Plan for Region 49, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: November 6, 1992.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 30, 1992.
Released: November 6, 1992.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On May 7, 1992, Region 49 (Austin) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in the Austin area.

2. The Austin Plan was placed on Public Notice for comments on August 18, 1992, 57 FR 38307 (August 24, 1992). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for the Austin area and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in the Austin area.

4. Therefore, we accept the Austin Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in the Austin area may commence immediately.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 92–27749 Filed 11–16–92; 8:45 am]

BILLING CODE 6712–01–M

[DA-92-1537]

Comments Invited on Montana Public Safety Plan

November 9, 1992.

The Commission has received the public safety radio communications plan for Montana (Region 25).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 25 consists of the state of Montana. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before December 16, 1992 and reply comments on or before December 31, 1992. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 92–267 Montana-Public Safety Region 25.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–27744 Filed 11–16–92; 8:45 am]

BILLING CODE 6712–01–M

[DA 92-1538]

Comments Invited on Nevada Public Safety Plan

November 9, 1992.

The Commission has received the public safety radio communications plan for Nevada (Region 27).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 27 consists of the state of Nevada. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before December 16, 1992 and reply comments on or before December 31, 1992. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 92–268 Nevada-Public Safety Region 27.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–27745 Filed 11–16–92; 8:45 am]

BILLING CODE 6712–01–M

[DA 92-1539]

Comments Invited on Oregon Public Safety Plan

November 9, 1992.

The Commission has received the public safety radio communications plan for Oregon (Region 35).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 35 consists of the state of Oregon. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may file comments on or before December 16, 1992 and reply comments on or before December 31, 1992. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1980), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, D.C. 20554 and should clearly identify them as submissions to PR Docket 92–269 Oregon–Public Safety Region 35.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–27746 Filed 11–16–92; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1917]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 12, 1992–MM.

Petitions for reconsideration have been filed in the Commission

rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center, (202) 452-1422. Opposition to these petitions must be filed on or before December 2, 1992. See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Bon Air, Chester, Mechanicsville, Ruckersville, Williamsburg and Fort Lee, Virginia) (MM Docket No. 90-67, RM Nos. 7482, 7026, & 7057)
Number of Petitions Filed: 3

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Lafayette, Louisiana) (MM Docket No. 90-550, RM No. 7345)
Number of Petitions Filed: 1

Subject: Amendment of § 73.202(b), Table of allotments, FM Broadcast Stations (Florida, Kings, Utica, Hazelhurst, Vicksburg, Mississippi; and Epps, Louisiana) (MM Docket No. 91-131, RM Nos. 7702 & 7841)
Number Of Petitions Filed: 1

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 92-27786 Filed 11-16-92; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).

Form Number: FFIEC 031, 032, 033, 034.

OMB Number: 3064-0052.

Expiration Date of OMB Clearance: September 30, 1993.

Respondents: Insured state nonmember commercial and savings banks.

Frequency of Response: Quarterly.

Number of Respondents: 7,495.

Number of Responses Per Respondent: 4.

Total Annual Responses: 29,980.

Average Number of Hours Per Response: 24.35.

Total Annual Burden Hours: 729,929.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0052, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before December 15, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: These revisions to the Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks) apply to all four sets of report forms (FFIEC 031, 032, 033, and 034). The revisions, all of which are required by the Federal Deposit Insurance Corporation Improvement Act of 1991, are summarized as follows.

(1) A new part II is added to Schedule RC-C, "Loans and Lease Financing Receivables," to collect data once each year as of June 30 on loans to small businesses and small farms;

(2) A memorandum item is added to Schedule RC-E, "Deposit Liabilities," for "preferred deposits;"

(3) The coverage of the memorandum items in Schedule RC-E, "Deposit Liabilities," on brokered deposits is modified by bringing the Call Report definition of "deposit broker" into conformity with the definition of this term that is contained in section 29(g) of the Federal Deposit Insurance Act;

(4) A new item is added to Schedule RC-L, "Off-Balance Sheet Items," for "all other off-balance sheet assets;

(5) The coverage of the items in Schedule RC-M, "Memoranda," on "extensions of credit by the reporting bank to its executive officers, principal shareholders, and their related interests," is expanded to include "directors and their related interests;"

(6) A new item is added to Schedule RC-O, "Other Data for Deposit Insurance Assessments," for "deposits in lifeline accounts" (although this item would be added to the report forms for March 31, 1993, banks would not be required to complete the item until the Federal Reserve Board and the Federal Deposit Insurance Corporation establish the minimum requirements for "lifeline accounts"); and

(7) A new memorandum item is added to Schedule RC-O for "estimated uninsured deposits (in domestic offices) of the bank." In addition, the schedule on highly leveraged transactions (Schedule RC-T) has been deleted effective as of September 30, 1992.

Dated: November 10, 1992.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 92-27806 Filed 11-16-92; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Reporting of Information on Small Business and Small Farm Lending by Insured Banks, Thrifts, and U.S. Branches of Foreign Banks

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of adoption of new reporting requirements.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC) has approved annual reporting requirements for insured banks, thrifts, and U.S. branches of foreign banks on loans to small businesses and small farms. These reporting requirements would implement section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) and the information that would be collected may assist the Federal Reserve Board in fulfilling the requirements of section 477 of FDICIA.

New items would be added to the Reports of Condition and Income filed by insured commercial banks and FDIC-supervised savings banks and to the Thrift Financial Report filed by savings associations. New items would also be added to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, but the items would be completed only by insured branches. In general, these institutions

would be required to report information once each year as of June 30 on the number and amount currently outstanding of (a) nonfarm nonresidential real estate loans and commercial loans with original amounts of $100,000 or less, more than $100,000 through $250,000, and more than $250,000 through $1,000,000 and (b) agricultural real estate and agricultural loans with original amounts of $100,000 or less, more than $100,000 through $250,000, and more than $250,000 through $500,000. Thus, business loans with "original amounts" of $1 million or less and farm loans with "original amounts" of $500,000 or less would serve as proxies for loans to small businesses and small farms.

DATES: The effective date for these new reporting requirements is the June 30, 1993, report date.

FOR FURTHER INFORMATION CONTACT:

Office of the Comptroller of the Currency (OCC): Gary Christensen, National Bank Examiner, Chief National Bank Examiner's Office, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, (202) 874–5190.

Federal Reserve Board (FRB): Thomas R. Boemio, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551, (202) 452–2982.

Federal Deposit Insurance Corporation (FDIC): Robert F. Storch, Chief, Accounting Section, Division of Supervision, 550 17th Street, NW., Washington, DC 20429, (202) 898–8906.

Office of Thrift Supervision (OTS): Thomas A. Loeffler, Assistant Director for Supervisory Operations, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–5762.

SUPPLEMENTARY INFORMATION:

Background

Section 122 of FDICIA (Pub. L. 102–242, 105 Stat. 2251 (12 U.S.C. 1817 note)) requires the federal banking agencies (i.e., the OCC, FRB, FDIC, and OTS) to annually collect from insured depository institutions in the their "reports of condition" such information on small business and small farm lending as the agencies may need to assess the availability of credit to these sectors of the economy. Section 122 does not specify the types of information that the agencies may collect on small business and small farm loans. However, the statute does indicate that the agencies' reporting requirements "may include" information on (1) the total number and dollar amount of commercial loans and commercial mortgage loans to small businesses, (2) the amount of charge-offs and interest and fee income on these types of loans, and (3) agricultural loans to small farms. Section 122 does not explicitly describe the types of information that may be collected on agricultural loans to small farms.

Section 477 of FDICIA (Pub. L. 102–242, 105 Stat. 2387 (12 U.S.C. 251)) requires the FRB to collect and publish, on an annual basis, information on the availability of credit to small businesses. This annual report is required, to the extent practicable, to include (1) information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses, (2) information broken out by the annual sales of small businesses and for those small businesses in existence for less than a year; and (3) information on these loans by geographic region.

Thus, some of the information required by section 477 would seem to duplicate the information suggested for collection in "reports of condition" by section 122. However, the method by which the information for section 477 should be collected is left to the discretion of the FRB, although the law provides that the need to minimize reporting costs should be considered.

On May 20, 1992, the FFIEC published proposed reporting requirements on small business and small farm lending (57 FR 21410). The 30-day comment period for the proposal ended on June 19, 1992. Because the terms "small business" and "small farm" are not defined in section 122, the FFIEC proposed to use annual sales as the basis upon which to identify small businesses and small farms. Businesses and farms with annual sales of less than $10 million and $500,000, respectively, were deemed to be "small." Otherwise, the content of the proposal for the most part followed suggestions provided in Section 122. Thus, the proposed schedule included in types of information that the statute suggests that the agencies should collect on commercial loans and commercial mortgage loans to small businesses (i.e., number of loans and amount outstanding, interest and fee income, and net charge-offs). It also requested the same information on agricultural loans and agricultural mortgage loans to small farms even though section 122 is silent on the types of small farm lending data that might be collected.

The only element of the provisions of section 477 that was reflected in the proposed schedule was a breakdown of the number and amount outstanding of commercial loans and commercial mortgage loans to small businesses into three size categories of small business based on annual sales volume. The FFIEC decided not to propose to collect information in the new schedule on two other elements of Section 477: Loans to minority-owned small businesses and loans to small businesses in existence for less than one year. Depository institutions generally are not permitted to present to maintain information on minority-owned business borrowers and to not maintain data on loans to start-up businesses. Nevertheless, the proposal solicited comments on the feasibility of collecting such information in "reports of condition" or from other possible sources.

Although Section 122 applies only to insured depository institutions, the proposal indicated that, under the principle of "national treatment," the new schedule would be completed by both insured and noninsured U.S. branches and agencies of foreign banks as part of their "reports of condition."

Finally, the proposal set June 30, 1993, as the effective date for the annual reporting requirement.

Summary of Comments Received

The FFIEC received 575 letters in response to its request for public comment. Comments were received from 524 banking organizations and savings institutions, 13 depository institution trade associations, 18 community groups, 11 members of Congress (in seven letters), and 13 other parties. Of the comment letters that were received, 437 commenters (all but one of which were banking organizations, savings institutions, or depository institution trade associations) were generally opposed to the proposed reporting requirements while 36 commenters were generally in favor. The remaining commenters did not express an overall opinion on the proposal.

Banking Organization, Thrift, and Depository Institution Trade Association Comments—Of the 537 comments received from banking and thrift organizations and their trade associations, 436 commenters explicitly expressed their opposition to the proposal while only four indicated that they were in favor of the proposal. Generally, there was a sentiment that the information that would be collected is unnecessary (14 percent of the comments) and is not useful for the purposes of indicating the safety and soundness of an institution.

In addition, 74 commenters stated that the costs of implementing the data collection and continuing collection costs would outweigh any benefits that may be derived from the information. 85 commenters believed that the implementation costs would be excessive but did not supply cost estimates. 21 other commenters stated that their implementation cost would be between $1,000 and $5,000 and another 19 indicated that their cost would fall between $5,000 and $10,000. 51 commenters stated that their implementation costs would exceed $10,000.

With respect to collecting information on minority-owned businesses, 38 commenters felt that depository institutions should not, or could not, collect these data since it would alienate customers and under Federal Reserve Board Regulation B, "Equal Credit Opportunity," it is currently illegal to collect these data. Also, commenters indicated that obtaining this information would depend upon the cooperation of the customer.[1]

Seventy-three banks, thrifts, and trade associations suggested that the agencies should adopt an exemption for smaller institutions. 48 of these commenters suggested specific types of exemptions, usually determined by the asset size of the institution. It was the belief of nine institutions that the requirement should exclude all institutions with less than $25 million in assets, another three institutions opined for institutions under $50 million in assets, and seven more institutions indicated their belief that an exemption should apply to all institutions under $100 million.

Community Group Comments—Of the 18 comments received by various community groups, many of which submitted identical letters, 15 stated that the information collected on loans to small businesses and small farms should be broken out by census tract. They expressed this view because they believe that redlining occurs by neighborhoods and census tracts rather than by geographic regions. In addition, the community groups do not favor granting an exemption to small depository institutions. One group advocated collecting information on minority-owned businesses.

Congressional Comments—The FFIEC received seven comment letters from 11 different members of Congress. Six of the letters indicated some dissatisfaction with the proposed report schedule. Out of the seven comment letters, four letters indicated that information on loans to minority-owned businesses should be included in the proposed report schedule. These comment letters stated that data on minority-owned businesses are necessary to determine what types of programs are needed to assist such firms. In addition, they felt that data on minority-owned businesses will assist in determining whether discrimination occurs in lending to small businesses. With respect to the implementation date, two Congressmen stated that the proposed June 30, 1993, effective date was too late.

One Congressman felt that institutions with total assets of under $100 million should be exempt from any required reporting. One Senator wrote that he understood that the proposed reporting requirements would be burdensome and costly, and that the information is unnecessary. He suggested that the Small Business Administration and Farm Credit Administration collect the data.

New Reporting Requirements

The comment letters from depository institutions clearly indicated that it would be costly for them to comply with the reporting requirements that were proposed by the FFIEC. Nearly one quarter of the depository institutions who commented specifically indicated that the data proposed for collection was not readily available from their records. The most critical aspect of the proposal affecting an institution's ability to report data on small business and farm lending is the definition of a "loan to a small business/farm." In part because Section 477 of FDICIA refers to "categories of small businesses determined by annual sales," the proposal would have required depository institutions to use the annual sales of their business and farm borrowers as the way to distinguish loans to small businesses and small farms from other business and farm loans. However, even when institutions' credit files contain information on their borrowers' annual sales, sales data are usually not contained in either automated or manual loan systems. As a consequence, before institutions could report small business and farm loan data in the form proposed by the FFIEC, depository institutions would need to modify their loan systems to include borrowers' sales data in some fashion, institute procedures for capturing sales data on new loans, and assemble sales data for existing loans by reviewing their individual loan files.

Loan Size Approach—A comparison of the expected costs that the proposed reporting requirements would impose on depository institutions with the expected benefits of the information that would be reported to the agencies led the FFIEC to consider whether other reporting alternatives might be available that would allow institutions to report information of comparable value at a lower cost to the industry. Several commenters urged the FFIEC to base the reporting of small business and small farm loans on data that are already maintained in loan systems. Three commenters specifically suggested that business and farm loans could be reported by loan size since loan sizes are available in loan systems, thereby minimizing reporting burden, and loan size would tend to be indicative of borrower size.

Data reported in the 1989 National Survey of Small Business Finances, a survey of firms with fewer than 500 employees, indicated a strong correlation between size of business and loan size. Based on the survey results and the comments, the FFIEC concluded that the suggestion to collect information based on loan size had merit and decided to use the original amount of a business or farm borrower's loan/line of credit, rather than the borrower's annual sales, in the definition of a "loan to a small business/farm." The FFIEC further decided that business loans with original amounts of $1 million or less would be considered loans to small businesses and farm loans with original amounts of $500,000 or less would be deemed loans to small farms. The FFIEC believes that a loan's original amount is a better proxy for borrower size than the loan's outstanding balance because an institution's loans with balances below a certain amount would include loans of varying original amounts to all sizes of borrowers that have been partially repaid.

In addition, the FFIEC understands that automated loan systems typically contain information on the original amounts of loans/lines of credit. Manual systems (e.g., ledger cards) would normally display the original amounts of loans as well.

Loan Size Thresholds—A loan size cutoff of $1 million was determined to be a reasonable upper limit for identifying loans to small businesses. The FFIEC believes that more loans above this loan size category would tend to be made to larger businesses than in the category of loans of $1

[1] In contrast, a comment letter from the Government of the District of Columbia indicated that they recently enacted a requirement for banks to collect and report information on loans to small businesses and minority-owned businesses, and that the D.C. Government believes that the information will be useful.

million or less. In addition, the $1 million loan size cutoff for small business loans was selected based on the view that the more than 9,500 institutions with less than $100 million in assets would generally be constrained by their lending limits from making loans to businesses that would be considered "large." As of June 30, 1992, the ratio of equity capital to total assets for all commercial banks with less than $100 million in assets was 9.4 percent. Lending limits typically permit loans to one borrower for up to 15 percent of equity capital (unless secured by readily marketable collateral) and many banks commonly limit their exposure to a single borrower to ten percent of equity capital. Hence, a $100 million bank with a ten percent equity capital ratio would have $10 million in capital and could lend a single borrower up to $1.5 million (unless secured by readily marketable collateral), but would be more apt to lend no more than $1 million. The three commenters advocating loan size as the basis for reporting also suggested a $1 million cutoff.

While this same rationale could be used for establishing the size cutoff for small farm loans, information from the Second Quarter 1992 Agricultural Finance Databook published by the FRB indicates that less than five percent of all nonreal estate loans to farmers in recent years are made in amounts of $100,000 or more. This publication also estimates that in 1991 the average size of nonreal estate loans to farmers with original amounts of $100,000 or more was $540,000. Thus, a $1 million loan size cutoff for small farm loans would likely capture an extremely high percentage of all farm loans. The FFIEC concluded that a loan size cutoff of $500,000 would be appropriate in order to reduce the likelihood that loans that have been made to large farms are reported as part of an institution's loans to small farms.

In addition, because of community group and Congressional interest in credit availability to the smallest of small businesses and small farms, the FFIEC retained the concept of a three-way breakdown of loans to small businesses that was in the proposal and extended it to the small farm loans. The $100,000 and $250,000 loan size thresholds used in the breakdown are intended to roughly correspond to the lending limits and practices of institutions with $10 million and $25 million in assets. Furthermore, in an effort to eliminate redundant reporting by and limit the reporting burden of those small institutions which make substantially all of their business and/or farm loans in original amounts of $100,000 or less, the new reporting requirements include "yes/no" questions which allow institutions that respond affirmatively to report only the number of business and/or farm loans in their portfolios. Information on the amounts currently outstanding for these types of loans would be obtained from the information institutions report on the composition of their loan portfolios elsewhere in their "reports of condition."

Elimination of Income and Charge-off Data Items—The FFIEC decided to delete the proposed items on estimated income and net charge-offs on loans to small businesses and small farms from the reporting requirements. Depository institution commenters stated that the reporting of these data, which cover a one year period, would be even more costly and burdensome to compile than data on the number and amount currently outstanding of loans to small businesses and small farms, which are spot figures. Even with the change from annual sales to loan size as the basis for reporting loans to small businesses and small farms, income and net charge-off data for loans with original amounts less than a certain amount would not be readily available to depository institutions. The FFIEC also believes, as did may depository institution commenters, that information on loan income and charge-offs would not add sufficient value to the assessment of credit availability to justify the cost to institutions of reporting the information.

Application to U.S. Branches and Agencies of Foreign Banks—As proposed, the reporting requirements would have been applicable to all U.S. branches and agencies of foreign banks even though section 122 requires small business and farm loan data to be reported only by insured depository institutions. This stance was taken based on the principle of "national treatment" which posits that regulatory requirements to which U.S. depository institutions are subject should also apply to foreign institutions operating in the U.S. for reasons of competitive equity. Upon further consideration, the FFIEC decided against going beyond the statute and imposing those reporting requirements on noninsured U.S. branches and agencies of foreign banks. Excluding noninsured branches and agencies would also be consistent with the scope of the Community Reinvestment Act which applies only to insured depository institutions.

Effective Date—Under the proposal, June 30, 1993, was designated as the effective date for the reporting requirements. Because the proposal would have required the reporting of estimated income and net charge-off data for the 12-month period ending on the June 30 report date, 32 depository institution commenters recommended that the report date be changed to December 31. Other commenters suggested later effective dates for the reporting requirements because of the difficulties associated with implementing a reporting scheme based on borrowers' annual sales. As mentioned earlier, certain Congressmen would prefer an effective date earlier than June 30, 1993.

The FFIEC decided that the effective date should remain as proposed because the use of loan size rather than annual sales for defining small business and small farm loans should substantially reduce the lead time necessary for institutions to prepare for the reporting requirements. By notifying banks about these reporting requirements before year-end 1992 in accordance with the FFIEC's May 1992 policy statement on changes in regulatory reporting requirements, institutions should have sufficient lead time before having to report their small business and farm loan data for the first time as of June 30, 1993.

Minority-owned and Start-up Business Data—In its request for comment on the proposed reporting requirements, the FFIEC did not propose to collect data on loans to minority-owned businesses or to small businesses in existence for less than one year. Nonetheless, the FFIEC requested comment on the feasibility and costs of collecting information on such loans in "reports of condition." Depository institutions generally are not permitted at present to maintain information on minority-owned business borrowers and do not maintain data on loans to start-up businesses. Since section 477 of FDICIA does not require "reports of condition" to be used as the vehicle for collecting data on these two types of loans, the FFIEC determined that these loans should be excluded from the reporting requirements.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the current Reports of Condition and Income required of all insured commercial banks and FDIC-supervised savings banks, the Thrift Financial Report required of savings associations, and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks required of U.S. branches and agencies have been submitted to,

and approved by, the Office of Management and Budget (OMB). (OMB Control Numbers: Reports of Condition and Income—for OCC, 1557–0081; for FRB, 7100–0036; for FDIC, 3064–0052; Thrift Financial Report—OTS, 1550–0023; and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks—FRB, 7100–0032.) Each of the four agencies is submitting to OMB for its review the new reporting requirements on loans to small businesses and small farms that have been approved by the FFIEC.

Dated: November 12, 1992.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 92–27824 Filed 11–16–92; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part at 56 FR 7869, February 26, 1991) is amended to reflect a reorganization of the Center for Food Safety and Applied Nutrition (CFSAN), Office of Operations, Food and Drug Administration (FDA). For the past 20 years, CFSAN has been organized under the current structure which is divided into scientific areas. Under the proposed reorganization, the current structure would be abolished and the Center would be divided into program areas, with additional offices, one for strategic initiatives and planning and one for systems and support. FDA believes the new CFSAN structures will provide increased program accountability by giving the organizations with program responsibility control over the resources necessary to accomplish those responsibilities.

Under section HF–B, Organization:

1. Delete subparagraph (k–1) Office of the Center Director in its entirety and insert a new subparagraph reading as follows:

Office of the Center Director (HFF1). Develops, for approval of the Commissioner, Agency policy on foods and cosmetics

Provides leadership and direction to the Center programs and activities and coordinates programs with other Agency components, PHS, HHS, and other government agencies.

Plans, administers, coordinates, evaluates, and promulgates overall Center scientific, management, and regulatory programs, plans, and policies.

Coordinates and directs the Center management, planning, and evaluation systems to assure optimum utilization of Center personnel, financial resources, and facilities.

2. Delete subparagraphs (K–1–i through K–1–iD and k–2 through k–6) in their entirety and insert the following new subparagraphs.

Office of Policy, Planning, and Strategic Initiatives (HFF11). Develops food policies and resolves food policy issues in collaboration with the Center Director and with input from the Food Policy Council.

Provides a centralized monitoring, coordinating, and advisory function for the Center on policies involving sensitive controversial, and complex food issues.

Serves as the Agency focal point for the development, implementation, and operation of the Center's Advisory Committees.

Develops a manages strategic initiatives in the food program.

Advises and assists the Center Director and other key officials on administrative, scientific, legal, and regulatory problems and policies concerning the Center's responsibilities.

Oversees the development and revision of the Agency's Compliance Policy Guides for foods and cosmetics.

Advises Center officials on regulatory approaches and manages the development of periodic plans for the Center's regulation development activities.

Serves as the principal liaison with other Agency components and other government agencies on crosscutting policy and program issues.

Serves as the focal point for the Center's Freedom of Information activities.

Office of Programs (HFFB). Provides direction and oversight for the program functions of the Center.

Office of Cosmetics and Colors (HFFBA). Develops and conducts scientific studies of cosmetic ingredients and products, color additives, color additive diluents, and products containing color additives.

Develops and conducts the toxicological and microbiological activities for cosmetics. Develops analytical methods for cosmetic products and ingredients and color additives.

Reviews and responds to cosmetic petitions submitted to the Agency. Provides scientific and technical support for color additive petitions.

Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on cosmetics and color additive certification and administers the Agency's color certification and cosmetic registration programs.

Provides expert scientific and technical advice and assistance to the Center Director, other key officials, and the field on cosmetic policy issues, field programs, initiatives, and related activities.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Serves as the principal Agency liaison on cosmetics and color certification with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Food Labeling (HFFBB). Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on food labeling and food standards. Develops labeling requirements appropriate for foods for special dietary uses in coordination with other Center components.

Reviews food standard proposals and determines the priority for review, development, and promulgation of food standards.

Issues temporary marketing permits to allow manufacturers to test market new foods that deviate from established standards of identity.

Manages the review of petitions submitted to the Agency for changes in or exemptions to food labeling regulations.

Develops and maintains methods for the Center's nutrient analysis for food labeling. Plans, conducts, and evaluates research and surveillance on the nutritional components and quality of foods and on nutritional status and food consumption patterns.

Provides expert scientific and technical advice and assistance to the Center Director, other key officials, and the field on food labeling policy issues, field programs, initiatives, and related activities.

Reviews food product labeling for adherence to regulations and nutrient composition/content information to determine the accuracy of manufacturers' claims. Develops technical content for and participates in programs designed to improve

compliance by industry through problem prevention.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Service as the principal Agency liaison on food labeling with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Premarket Approval (HFFBC). Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on issues related to the safe uses of food additives, color additives, GRAS substances, and prior sanctioned substances.

Manages the Center's petition review process for food and color additives. Evaluates safety information, prepares **Federal Register** documents relating to petitions, and compiles the administrative records regarding petitions.

Develops analytical methodologies to identify and quantify food additives and potentially toxic additive alternation products in foods. Conducts validation studies of methods submitted by petitioners and recommends analytical procedures.

Manages the Agency's review and monitoring of identity, exposure and toxicity information on GRAS substances, and food and color additives.

Develops plans for and operates, under contract, national and international food additives surveys and databases.

Prepares and/or reviews documentation required by the Center to implement the National Environmental Policy Act (NEPA). Coordinates the Center review of documents prepared under NEPA by other Federal agencies.

Develops technical content for and participates in programs designed to improve compliance by industry through problem prevention.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Serves as the principal Agency liaison on safety testing methodologies and protocol standards needed to evaluate the safety of food components with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Plant and Dairy Foods and Beverages (HFFBD). Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on contemporary food production and packaging techniques and the role of chemical and microbial contaminants in food safety.

Investigates biochemical mechanisms associated with harmful effects of foodborne microbial pathogens, chemical structure and properties of natural substances found in foods, food processing and packaging technologies, food composition, and food hygiene and sanitation.

Develops and/or applies analytical methods and techniques to identify, quantify, monitor, and/or regulate pesticide residues; contaminants of chemical, microbial, insect, and rodent origin; natural toxicants; food components; and food processing and sanitation practices.

Conducts safety assessments of biological and chemical contaminants and components of foods.

Provides expert scientific and technical advice and assistance to the Center Director, other key officials, and the field on food safety policy issues, field programs, initiatives, and related activities.

Develops technical content of and participates in programs designed to improve compliance by industry through problem prevention.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Serves as the principal Agency liaison on plant and dairy foods and beverages with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Seafood (HFFBE). Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on seafood. Develops labeling requirements in coordination with other Center components.

Develops, implements, and manages voluntary and mandatory seafood safety programs, in coordination with other Agency and Federal organizational components.

Originates, plans, and conducts research on seafood, aquaculture, and seafood harvesting and processing as they may be affected by chemical, biotoxic, or microbial contamination.

Develops analytical methods to detect economic deception practices such as overbreading, watering, and species substitution.

Administers the National Shellfish Sanitation Program (NSSP) and, in cooperation with the Interstate Shellfish Sanitation Conference, the NSSP Manual of Operations, and the Certified Shellfish Shipping List.

Designs and coordinates evaluations of the effectiveness of Agency seafood programs.

Provides expert scientific and technical advice and assistance to the Center Director and other key officials on the conduct of international seafood activities, including the development and implementation of bilateral agreements.

Develops technical content for and participates in programs designed to improve compliance by industry through problem prevention.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Serves as the principal Agency liaison on seafood programs and policies with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Special Nutritionals (HFFBG). Develops regulations, compliance policy, position papers, regulatory guidelines, and advisory opinions on special nutritional foods, including but not limited to infant formulas, dietary supplements, and medical foods. Establishes labeling requirements appropriate for such foods, in coordination with other Center components.

Maintains the Center's nutrient research and nutrient analysis capabilities for special nutritional foods. Plans, conducts, and evaluates research on special nutritionals and on nutritionally significant substances in foods. Develops appropriate methods of nutrient analysis.

Reviews special nutritional products for adherence to regulations and the accuracy of manufacturers' claims. Develops technical content of and participates in programs designed to improve compliance by industry through problem prevention.

Provides expert scientific and technical advice and assistance to the Center Director, other key officials, and the field on special nutritional policy issues, field programs, responses to petitions, initiatives, and related activities.

Reviews proposed regulatory actions referred by the Office of Field Programs for program policy consideration and provides technical evaluation and necessary scientific support.

Serves as the principal Agency liaison on special nutritional products and policies, including infant formula products and medical food petitions and inquiries with industry, Federal, State, foreign, and other organizations outside the Agency. As necessary, provides

clinical expertise for the evaluation of major food additive petitions and particular health hazards.

Office of Special Research Skills (HFFBH). Conducts research to evaluate toxicological health hazards of foods, color additives, contaminants and natural toxicants in food, and metabolites of these substances.

Develops and recommends the Center's toxicological research program goals and priorities. Reviews and recommends toxicological research protocols for intramural programs and Memoranda of Need for extramural contracts.

Develops, applies, and optimizes methods for the detection and quantification of foodborne microbes (particularly pathogens).

Maintains working knowledge of and expertise on the status of microbiological methods used by other nations and approved by international standards groups.

Serves as the Center's principal liaison on toxicological research with industry, Federal, State, foreign, and other organizations outside the Agency.

Office of Systems and Support (HFFC). Provides direction and oversight for the systems and support functions of the Center.

Office of Constituent Operations (HFFCA). Identifies consumer education needs. Develops, implements, and monitors consumer education programs with other appropriate Center and Agency components.

Develops and implements outreach projects and maintains liaison with industry, trade associations, and professional and academic groups to promote better industry understanding of and compliance with FDA regulations, guidelines, policies, and programs on foods, cosmetics, and related matters.

Coordinates the Center's legislative activities.

Coordinates the center's planning, direction, and administration of Agency activities with international organizations.

Coordinates the Agency's role in international harmonization of food laws, regulations, standards, and science policies.

Office of Field Programs (HFFCB). Serves as the focal point between the Center and the field.

Coordinates with Center program offices and the Office of Regional Operations in developing and implementing field programs. Evaluates field accomplishments and provides feedback to Center and field management.

Reviews proposed recalls and regulatory actions for adequacy of evidence and consistency across programs; and coordinates with and refers cases to appropriate program offices for policy and technical review.

Plans and develops approaches to implement regulatory responsibilities in interstate travel sanitation.

Publishes and promotes sanitation standards for regulating food service, food stores, and food vending operations and the milk industry. Provides information, training, and assistance to implement such standards.

Coordinates with the States on the National Shellfish Sanitation Program and evaluates State programs.

Conducts a national certification program for laboratories testing dairy products and other foods.

Develops and supports the implementation of Hazard Analysis Critical Control Point (HACCP) programs in the production and processing of foods. Provides technical evaluations to support regulation of low-acid, thermally processed foods.

Office of Management Systems (HFFCC). Advises the Center Director on administrative policies and guidelines and scientific and technical information systems.

Plans and directs all Center operations related to budget, financial, and personnel management, employee development and training, equal employment opportunity, security and safety management, and laboratory safety and health. Develops Center operational plans and performs management studies and evaluations, as necessary, throughout the Center.

Provides technical support and facilities management to the Center in the areas of visual information, supply, equipment, space, communications, printing, reproduction, mail, contracts and grants, and awards.

Directs the Center's information resources management program, including planning, contracts, equipment and software procurement, training, utilization of ADP systems and facilities, and information systems services (library services).

Coordinates the Center's activities dealing with the Federal Managers Financial Integrity Act, associated internal controls, and integrity issues.

Office of Scientific Analysis and Support (HFFCD). Provides specialized support to Agency food and cosmetic regulations development, pre-market approval, enforcement, safety assessment, and monitoring programs.

Evaluates statistical data, develops mathematical methods and models, and provides statistical analysis to support Center programs.

Evaluates pathological data submitted to the Agency and provides pathological support to Agency programs.

Provides specialized physicochemical instrumental analysis and interpretation to support Agency programs.

Conducts studies of consumer attitudes and concerns relating to regulation and labeling of food and cosmetics, in coordination with other Center components.

Prepares Regulatory Impact Analysis and Federalism Analysis on food and cosmetic regulations.

Under Section HF-D, Delegation of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to officers or employees of the Center in effect prior to this date shall continue in effect in them or their successors.

Dated: November 6, 1992.

Louis W. Sullivan,

Secretary, HHS.

[FR Doc. 92-27813 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-1-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part at 56 FR 6404, February 15, 1991) is amended to reflect a reorganization of the Center for Biologics Evaluation and Research (CBER), Office of Operations, Food and Drug Administration (FDA). CBER had been organized under a structure that separated research and review areas. The reorganization consolidates the research and review functions by type of product within three offices: (1) Blood Research and Review, (2) Therapeutics Research and Review, and (3) Vaccines Research and Review. The post-marketing clinical surveillance and establishment licensing activities for all three product areas (except blood and plasma establishments) are being centralized within one office titled Office of Establishment Licensing and Product Surveillance. The functions of the Office of Management and the Office of Compliance have not been modified. FDA believes the new CBER structures provide increased program

accountability by giving the offices with defined product responsibility control over the resources available to accomplish those responsibilities.

Under Section HF-B, Organization: 1. Delete subparagraph (p-1) Office of the Center Director in its entirety and insert a new subparagraph reading as follows:

Office of the Center Director (HFB1). Promulgates, plans, administers, coordinates, and evaluates overall Center scientific, regulatory, and management programs, plans and policies.

Provides leadership and direction for all Center activities and cooperation with other Agency components and outside organizations.

Coordinates and directs the Center management, planning, and evaluation systems to ensure optimum utilization of Center personnel, financial resources, and facilities.

2. Delete subparagraphs (p-3) and (p-4) in their entirety and insert the following new subparagraphs:

Office of Blood Research and Review (HFBJ). Plans and conducts research related to the development, manufacture, testing and activities of biological blood products, including those related to AIDS and those prepared by genetic engineering and synthetic procedures, in order to develop and maintain a scientific base for establishing standards designed to ensure the continued safety, purity, potency and effectiveness of biological blood products. Performs functions regarding blood components, blood derivatives and analogous products, and diagnostic test kits related to the blood supply and/or AIDS.

Plans and conducts research on the preparation, preservation, characteristics, action, and safety of blood and blood products; the methods of evaluating safety, purity, potency, and efficacy of such products; the therapeutic uses of such products; the problems concerned with products; and the testing and use of diagnostic reagents employed in grouping and typing blood, and screening for markers of infectious diseases.

Develops policy and procedures governing the pre-market approval review and evaluation of biological blood products in keeping with the provisions of the PHS Act and applicable provisions of the FD&C Act.

Reviews, evaluates, and takes appropriate action on investigational new drug applications (INDs) related to biological blood products and amendments or supplements to these applications. Actions include, but are not limited to, approval or disapproval of research plans and protocols, modifications, and restrictions. Performs the investigational device exemption (IDE) review process for devices related to biological blood products regulated by the Office, and develops related policy.

Reviews, evaluates, and takes appropriate action on product applications submitted by manufacturers of biological blood products, including labeling, and proposes written and reference standards for biological blood products regulated by the Office.

Reviews, evaluates, and takes appropriate action on establishment license applications submitted by blood and plasma establishments and on registration and product listing forms required by section 510d of the FD&C Act.

In cooperation with other Center components, as appropriate, tests products submitted for release by manufacturers.

In coordination with the Office of Establishment Licensing and Product Surveillance, evaluates clinical experience and reports of adverse events as necessary.

Participates in inspections of manufacturing facilities for compliance with applicable standards.

Reviews, evaluates, and takes appropriate action on recommendations concerning denial of license applications for products.

Administers applicable provisions of the FD&C Act as they pertain to pre-market clearance or review of certain devices and drugs that are under the jurisdiction of the Office.

Cooperates with other Agency components and outside organizations on a variety of issues related to these products.

Office of Therapeutics Research and Review (HFBK). Plans and conducts research related to the development, manufacture, testing, and activities of therapeutic biological products, including those related to AIDS and those prepared by genetic engineering and synthetic procedures, in order to develop and maintain a scientific base for establishing standards designed to ensure the continued safety, purity, potency and effectiveness of biological therapeutic products. Performs functions regarding cytokines and analogous products, growth factors (including hematopoietic factors), thrombolytic products, enzymes, monoclonal antibodies and analogous products, and biological gene therapy products.

Develops policy and procedures governing the pre-market approval review and evaluation of biological therapeutic products in keeping with the provisions of the PHS Act and applicable provisions of the FD&C Act.

Reviews, evaluates, and takes appropriate action on investigational new drug applications (INDs) related to therapeutic products and amendments or supplements to these applications. Actions include, but are not limited to, approval or disapproval of research plans and protocols, modifications, and restrictions. Performs the investigational device exemption (IDE) review process for devices related to biological therapeutic products regulated by the Office, and develops related policy.

Reviews, evaluates, and takes appropriate action on product applications submitted by manufacturers of biological therapeutic products, including labeling, and proposes written and reference standards for biological therapeutic products.

In cooperation with other Center components, as appropriate, tests products submitted for release by manufacturers.

In coordination with the Office of Establishment Licensing and Product Surveillance, evaluates clinical experience and reports of adverse events as necessary.

Participates in inspections of manufacturing facilities for compliance with applicable standards.

Reviews, evaluates, and takes appropriate action on recommendations concerning denial of license applications for products.

Administers applicable provisions of the FD&C Act as they pertain to certain devices and drugs that are under the jurisdiction of the Office.

Cooperates with other Agency components and outside organizations on a variety of issues related to these products.

Office of Vaccines Research and Review (HFBL). Plans and conducts research related to the development, manufacture, testing, and activities of vaccines and related products, including those related to AIDS and those prepared by genetic engineering and synthetic procedures, in order to develop and maintain a scientific base for establishing standards designed to ensure the continued safety, purity, potency and effectiveness of vaccines and related products. Performs functions regarding vaccines, allergenic products, antigen specific immunomodulators, and diagnostic antigens.

Develops policy and procedures governing the pre-market approval review and evaluation of vaccines and related products in keeping with the

provisions of the PHS Act and applicable provisions of the FD&C Act.

Reviews, evaluates, and takes appropriate action on investigational new drug applications (INDs) related to vaccines and related products and amendments or supplements to these applications. Actions include, but are not limited to, approval or disapproval of research plans and protocols, modifications, and restrictions. Performs the investigational device exemption (IDE) review process for devices related to vaccines and related products regulated by the Office, and develops related policy.

Reviews, evaluates, and takes appropriate action on product applications submitted by manufacturers of biological vaccines and related products, including labeling, and proposes written and reference standards for vaccines.

In cooperation with other Center components, as appropriate, tests products submitted for release by manufacturers.

In coordination with the Office of Establishment Licensing and Product Surveillance, evaluates clinical experience and reports of adverse events as necessary.

Participates in inspections of manufacturing facilities for compliance with applicable standards.

Reviews, evaluates, and takes appropriate action on recommendations concerning denial of license applications for products.

Cooperates with other Agency components and outside organizations on a variety of issues related to these products.

Office of Establishment Licensing and Product Surveillance (HFBM). Identifies and recommends appropriate action, in coordination with other agency components, on the results of continuing surveillance and evaluation of advertising and clinical experience reports submitted by manufacturers and sponsors of products regulated by the Center.

Develops policies and procedures for and receives, reviews, evaluates, and takes appropriate action on establishment license applications submitted by manufacturers (except blood and plasma establishments) in coordination with other Center components, as appropriate, and establishes written and reference standards for biological products establishments (except blood and plasma establishments).

In coordination with other Center components, as appropriate, tests products submitted for release by manufacturers.

Administers scientific resources, such as animal laboratories, shared by other Center components.

Maintains a reference reagent program.

Develops statistical and epidemiological programs and provides analyses in support of Center regulatory and science activities.

Participates in inspections of manufacturing facilities for compliance with applicable standards.

Under Section HF-D, Delegation of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to officers or employees of the Center in effect prior to this date shall continue in effect in them or their successors.

Dated: November 6, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-27814 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 57 FR 34147, August 3, 1992) is amended to reflect the following changes in the Office of the Director, National Institutes of Health (NIH) (HNA): (1) Establish the Office of Research on Minority Health (ORMH) (HNAE) and the Office of Research on Women's Health (ORWH) (HNAF).

Section HN-B. Organization and Functions, is amended as follows: After the heading *Office or the Director, NIH (HNA), Office of Equal Opportunity (HNAD),* insert the following:

Office of Research on Minority Health (HNE). (1) The Office of Research on Minority is under the director of a Director who advises the NIH Director and staff on matters relating to research on minority health and enhanced minority participation in research; (2) services as the NIH focal point for establishing NIH-wide goals for minority research and training programs and for the coordination and development of these programs; (3) develops and implements a trans-NIH plan to improve the effectiveness of all NIH programs aimed at increasing minority participation in biomedical research and to increase NIH-supported research on minority populations and on diseases and conditions that affect minorities disproportionately; (4) creates initiatives to enhance the research effort targeted to minority health, increase the effectiveness of outreach and education programs, and develop the research infrastructure at minority institutions; and (5) informs the scientific and medical communities and other government agencies of NIH minority activities and involves them in efforts to expand and encourage minority health research and training programs.

Office of Research on Women's Health (HNAF). The Office of Research on Women's Health is under the direction of a Director who advises the NIH Director and staff on matters relating to research on women's health; (2) strengthens and enhances research related to diseases, disorders, and conditions that affect women; (3) ensures that research conducted and supported by NIH adequately addresses issues regarding women's health; (4) ensures that women are appropriately represented in biomedical and biobehavioral research studies supported by the NIH; (5) develops opportunities for and supports recruitment, retention, re-entry, and advancement of women in biomedical careers; and (6) supports research on women's health issues.

Dated: November 3, 1992.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

[FR Doc. 92-27815 Filed 11-16-92; 8:45 am]

BILLING CODE 4140-01-M

Administration for Children and Families; Office of Refugee Resettlement

Availability of FY 1993 Grants to Public and Private Non-Profit Agencies

Supplemental Notice: Availability of FY 1993 grants to public and private non-profit agencies to support case management, employment services, and transitional cash assistance for newly arrived refugees [1] who are not eligible

[1] In addition to the definition of eligible refugees provided in 57 FR 47718, applicants should note that persons paroled as refugees as asylees under Section 212(d)(5) of the Immigration and Nationality Act are also eligible for PRP services, provided that the individual has been issued an I-94 that specifically states "paroled as a refugee" or "paroled as an asylee." These are the ONLY individuals admitted under section 212(d)(5) who are eligible for PRP services. Individuals admitted or patroled under section 212(d)(5) whose I-94 INCLUDES THE WORDS "humanitarian" or "public interest parolee" (P.I.P.) are not eligible for PRP services.

for assistance under the Federal Programs of Aid to Families With Dependent Children (AFDC) or Supplemental Security Income (SSI). These are refugees currently eligible for Refugee Cash Assistance (RCA). A notice of proposed rule making effecting the termination of RCA is being published.

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Provision of supplementary information on a notice of availability of fiscal year 1993 grant awards to public or private non-profit agencies which have access to eligible newly-arrived refugees for the provision of all of the following: case management, employment services, and transitional cash assistance. The program will be called the Private Resettlement Program (PRP).

SUMMARY: On October 19, 1992, ORR published in the **Federal Register** (57 FR 47718) an announcement to solicit competitive applications from public and private non-profit agencies to implement the Office of Refugee Resettlement's PRP. The announcement stipulated that the basis for funding would be a to-be-determined per capita amount for each of the refugees to be served by the grantee during a to-be-determined period of months after a refugee's arrival in the United States. Grantees' awards will be based upon the estimated number of refugees to be served times the per capita amount, pro rated for the number of months during which refugees actually will be served during the budget period. This amount may be revised in subsequent budget periods within the grant's project period and at the end of the grant, taking into consideration differences between the estimated and actual numbers of refugees resettled by the grantee, as well as actual appropriations to the program.

Based on Congress' FY 1993 appropriation of funds, ORR has now completed its calculation of funds to be made available under this grant program, and the purpose of this supplementary notice is to provide this and other supplemental information to prospective applicants.

New closing date: The closing date for submission of applications is established as midnight Friday night, November 20, 1992, instead of November 18, 1992, as stipulated in the original announcement. Rules set forth in the initial announcement concerning deadlines will apply to November 20 instead of November 18.

Availability of funds: A total of approximately $93,800,000 is being made available under this announcement.

Per capita amount: ORR plans to award a per capita amount, as described above, of $2,148 per refugee to be served during the project period. In their budget presentations, applicants must pro rate the funds required to provide assistance and services during the initial budget period. (For example, if a refugee arrives in August 1993, only a pro rated amount of the $2,148 total—one sixth of $2,148 ($358)—will be required to provide assistance and services before the end of the budget period September 30, 1993.)

Period of service: Grantees will be required to provide transitional cash assistance, case management, and employment services to eligible refugees (as needed and as specified in the Guidelines accompanying the announcement in 57 FR 47718) from the 31st day after arrival in the United States for an additional six months. (Also, as specified in the Guidelines, ORR calculates that in extenuating circumstances, emergency transitional assistance can be provided for one additional month. Payments for emergency cash assistance and special needs may be provided but may not exceed the monthly TCA payment level.) ORR calculates that available funds will permit assistance and services to eligible refuges for six months (in addition to the initial month after arrival, during which support is provided by the Department of State Resettlement and Placement grants), as well as for follow-up employment services for employed refugees for an additional three months, as specified in the program guidelines, subject to ORR analysis of proposed budgets submitted by successful applicants.

Although grantees are expected to provide services and assistance under this announcement beginning with a refugee's second month in the U.S., the PRP eligibility period in this announcement and in the original announcement (57 FR 47718) is calculated from date of arrival into the country. Thus, the PRP eligibility period is seven months. Transitional cash assistance is not provided under the PRP to refugees who receive assistance and services with the Reception and Placement Grants provided by the Department of State and the grants provided by the Community Relations Service, Department of Justice, during a refugee's first month in the U.S. PRP services may be provided during this month but may not duplicate those required under other grants. Where it can be documented that the refugee was not covered by an initial resettlement grant by either the Department of State or by the Community Relations Service, grantees may provide assistance and services through the PRP upon the date of the refugee's arrival in the U.S. Grantees which provide assistance and services during the first month to eligible refugees will receive proportional supplemental awards to the grant to the extent that funds are available.

Refugees who have their Refugee Cash Assistance terminated because the State-administered program was terminated are eligible to receive Transitional Cash Assistance (TCA) for the balance of months remaining between their time in the U.S. upon application for TCA and the PRP eligibility period.

Also eligible to apply for TCA are refugees who: (1) Have not received RCA or (2) had previously received RCA but were not receiving it during the month of December 1992 and, therefore, were not terminated from RCA. These refugees must have arrived in the United States on or before November 30, 1992, and their time in the U.S. must not have exceeded the eligibility period for TCA. They may apply for TCA as of January 1, 1993 to the agency which originally resettled them.

If the agency which originally resettled the refugee is not a PRP grantee, then the agency should refer that refugee to the grantee affiliate serving the new community in which the refugee resides. Those refugees are eligible to receive TCA for the balance of months remaining between their time in the U.S. upon application for TCA and the PRP eligibility period.

Grant applicants shall provide an estimate of the number of refugees they anticipate will be transferring from RCA to TCA and explain how this number was reached. Applicants shall also provide an estimate of the number of months that these refugees will receive TCA. For these refugees, agencies will be eligible for per capita grants of $305 per refugee per month served.

(Note: This per capita amount is in lieu of the estimate of costs requested in 57 FR 47718.)

As a condition for receipt of TCA, any employable refugee who received RCA prior to February 1, 1993 and who has received an employability plan pursuant to the provisions of 45 CFR 400.70–.79 must comply with the established employability plan as a condition of continuing to receive TCA. In the case of a refugee who arrived in the United States prior to January 1, 1993, the beginning of the PRP, and who moves during the period of PRP eligibility from his or her original place of

resettlement to a location in which there is no local agency of the PRP grantee agency which originally resettled him or her, that refugee may apply to a local agency of any PRP grantee serving the new location to continue receiving assistance and services under PRP. The new local agency, however, must notify the original PRP grantee agency that it is accepting the case. The original resettlement agency must notify the new local agency if any other local agency in the new location has already accepted the same case, in order to assure that the refugee will not receive TCA from more than one PRP local agency in the new location.

Project and budget periods: Grants with 34-month project periods will be awarded in December 1992. The initial budget period will extend from December 1, 1992 to September 30, 1993. Although the PRP program will begin on January 1, 1993, both the project period and the budget period will begin December 1, 1992, in order to permit grantees to charge start-up costs to the grant. This is in lieu of the separate estimate and budget request for pre-award costs specified in 57 FR 47718.

ORR will entertain non-competitive continuation applications with 12-month budget periods in subsequent years, subject to the availability of funds, satisfactory progress of the grantee's program, and determination that continued funding would be in the best interest of the Government. Continuation applications will be due on August 1, 1993, and August 1, 1994.

Other provisions of announcement

Except for the matters stipulated above, all provisions of the grant announcement, as published in the **Federal Register** on October 19, 1992 (57 FR 47718), including the Guidelines published therewith, remain in force.

Applicable regulations: The following HHS regulations are applicable under these grants:

42 CFR Part 441 subparts E & F, Services: Requirements and Limits Applicable to Specific Services—Abortions and Sterilization.
45 Part 16, Procedures of the Departmental Grant Appeals Board.
45 CFR Part 46, Protection of Human Subjects.
45 CFR Part 74, Administration of Grants.
45 CFR Part 76, Governmentwide Debarment and Suspension (Non-Procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants). Subpart F, Drug-Free Workplace Requirements (Grants).
45 CFR Part 80, Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of title VI of the Civil Rights Act of 1964.
45 CFR Part 81, Practice and Procedure for Hearings Under Part 80 of this title.
45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance.
45 CFR Part 86, Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
45 CFR Part 91, Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance.
45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
45 CFR Part 93, New Restrictions on Lobbying.
45 CFR Part 95, General Administration—Grant Programs (Public Assistance and Medical Assistance) Subpart E, Cost Allocation Plan.
45 CFR Part 400, Refugee Resettlement Program.
45 CFR Part 401, Cuban/Haitian Entrant Program.

Executive Order 12372 and 45 CFR Part 100

Applications submitted pursuant to this Program Announcement are not subject to review by States under Executive Order 12372 and 45 CFR part 100.

Second applicants' conference: On October 20, 1992, ORR conducted an applicants' conference to answer questions posed by prospective applicants concerning application content and program design. A second applicants' conference to answer any additional questions will be conducted beginning at 10 a.m. November 17, 1992 at the ORR offices, 901 D Street SW., Washington, DC 20447, Sixth Floor. Attendance at this conference is *not* required of applicants.

Dated: November 12, 1992.

Chris Gersten,

Director, Office of Refugee Resettlement.

[FR Doc. 92-27882 Filed 11-13-92; 9:10 am]

BILLING CODE 4130-01-M

Food and Drug Administration

[Docket No. 92N-0384]

Albion Laboratories, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Albion Laboratories, Inc. The NADA provides for the use of Curecal Feline (tetrasodium ethylenediamine tetraacetate) oral solution for the treatment of urolithiasis in cats. The sponsor requested the withdrawal of approval of the NADA and waived the opportunity for a hearing.

EFFECTIVE DATE: November 27, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8749.

SUPPLEMENTARY INFORMATION: Albion Laboratories, Inc., P.O. Box 750, 101 North Main St., Clearfield, UT 84015, is the sponsor of NADA 14-369, which provides for the use of Curecal Feline (tetrasodium ethylenediamine tetraacetate) oral solution for the treatment of urolithiasis in cats. In its letters dated April 30, 1992, and May 21, 1992, the sponsor requested the withdrawal of approval of the NADA.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-369 and all supplements and amendments thereto is hereby withdrawn, effective November 27, 1992.

Dated: November 9, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-27792 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92N-0372]

Cargill, Inc., Nutrena Feed Division; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Cargill, Inc., Nutrena Feed Division. The NADA provides for use of a tylosin Type A medicated article for making a tylosin Type C cattle, chicken, and swine feed. The sponsor requested the withdrawal of approval and waived the opportunity for hearing because it no longer manufactures or distributes the product. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entry that reflects the approval.

EFFECTIVE DATE: November 27, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food

and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8749.

SUPPLEMENTARY INFORMATION: Cargill Inc., Nutrena Feed Division, P.O. Box 5614, Minneapolis, MN 55440, is the sponsor of NADA 98–595, which provides for use of a tylosin Type A medicated article to make Type C cattle, chicken, and swine feeds. In its letter of June 30, 1992, Nutrena requested that FDA withdraw approval of NADA 98–595 because it no longer manufactures or distributes the product. The NADA, originally held by Walnut Grove Products, W. R. Grace & Co., was purchased by Nutrena, effective September 13, 1991.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 98–595 and all supplements and amendments thereto is hereby withdrawn, effective November 27, 1992.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600(c)(1) and (c)(2) and 558.625(b)(28) to reflect its withdrawal of approval of this NADA.

Dated: November 6, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92–27767 Filed 11–16–92; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N–0395]

Withdrawal of Approval of Combination Procaine Penicillin and Streptomycin or Dihydrostreptomycin Containing NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of nine new animal drug applications (NADA's) for combination procaine penicillin and streptomycin or dihydrostreptomycin containing drug products. Approval of the NADA's listed below are being withdrawn on the grounds that withdrawal has been requested by their respective sponsors.

EFFECTIVE DATE: Withdrawal of these approvals is effective June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mukund Parkhie,Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8758.

SUPPLEMENTARY INFORMATION: FDA has concluded, based upon an evaluation of effectiveness by the National Academy of Sciences/National Research Council Drug Efficacy Study Implementation Group, that there is a lack of substantial evidence that these drug products are effective for use as fixed combinations under the conditions prescribed, recommended, or suggested in the labeling. FDA informed the sponsors of this fact, and all sponsors requested voluntary withdrawal of approval of their applications. The NADA sponsors have also, by request, waived their opportunity for a hearing. The NADA's are identified as follows:

SPONSOR	DOSAGE FORM	DRUG INGREDIENTS	NADA NO.
Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland.	Injection	Procaine penicillin Dihydrostreptomycin sulfate	65–170
Solvay Animal Health, Inc., 1201 Northland Dr., Mendota Heights, MN 55120.	Injection	Procaine penicillin Dihydrostreptomycin sulfate	65–089
The Upjohn Co., Kalamazoo, MI 49001	Injection	Procaine penicillin Prednisolone Dihydrostreptomycin sulfate	65–098
Pfizer, Inc., 235 East 42d St., New York, NY 10017.	Injection	Procaine penicillin Dihydrostreptomycin sulfate	65–086
	Medicated Feed	Procaine penicillin Streptomycin sulfate	46–726
Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033.	Injection	Procaine penicillin Chlorpheniramine maleate Diphemanil methyl sulfate Dihydrostreptomycin sulfate	65–073
	Injection	Procaine penicillin Chlorpheniramine maleate Dexamethasone Dihydrostreptomycin sulfate	65–029
Merck Sharp & Dohme Research Labs., Division of Merck & Co., Inc., Rahway, NJ 07065.	Injection	Procaine penicillin Dihydrostreptomycin sulfate	65–028
	Medicated Feed	Procaine penicillin Streptomycin sulfate	46–981

Withdrawal of approval of these applications is effective June 1, 1993. Prior to that date, the agency will republish this notice and publish any final rules necessary to revoke drug approvals which are codified in 21 CFR part 500, effective June 1, 1993. At that time distribution from sponsor-owned facilities must cease. All manufacturing of the products will cease by March 1, 1993. The agency will exercise its enforcement discretion and will not take regulatory action based on lack of approval against the following finished dosage form product that are subject to any of the above-listed NADA's: (1) Products distributed from the sponsor-owned facilities on or before June 1, 1993, and used before their expiration dates; or (2) products that are imported from a foreign manufacturing facility and are pending entry into the United States on June 1, 1993, due to administrative delays that are not the responsibility of the sponsor.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of the NADA's listed above and all supplements and amendments thereto is hereby withdrawn, effective June 1, 1993.

Dated: November 5, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92–27793 Filed 11–16–92; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N-0419]

Drug Export; Hepatitis C Virus Encoded Antigen (Recombinant c22-3, c200, and NS5) ORTHO™ HCV 3.0 Elisa Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems Inc., has filed an application requesting approval for the export of the biological product Hepatitis C Virus Encoded Antigen (Recombinant c22-3, c200, and NS5) ORTHO™ HCV 3.0 Elisa Test System to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems Inc., Route 202, Raritan, NJ 08869, has filed an application requesting approval for the export of the biological product Hepatitis C Virus Encoded Antigen (Recombinant c22-3, c200, and NS5) ORTHO™ HCV 3.0 Elisa Test System to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. The Hepatitis C Virus Encoded Antigen (Recombinant c22-3, c200, and NS5) ORTHO™ HCV 3.0 Elisa Test System is a qualitative, enzyme-linked, immunosorbent assay for the detection of antibody to hepatitis C virus (anti-HCV) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on September 23, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: October 15, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92-27768 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92F-0357]

BASF Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that BASF Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a polysulfone resin consisting of 1,1'-sulfonylbis[4-chlorobenzene] polymer with 4,4'-(1-methylethylidene)bis[phenol] and 4,4'-sulfonylbis[phenol] as an article or component of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4262) has been filed by BASF Corp., 1609 Biddle Ave., Wyandotte, MI 48192-3799. The petition proposes to amend the food additive regulations in § 177.1655 *Polysulfone resins* (21 CFR 177.1655) to provide for the safe use of a polysulfone resin consisting of 1,1'-sulfonylbis[4-chlorobenzene] polymer with 4,4'-(1-methylethylidene)bis[phenol] and 4,4'-sulfonylbis[phenol] as an article or component of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 19, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-27795 Filed 11-16-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92E-0267]

Determination of Regulatory Review Period for Purposes of Patent Extension; Proleukin®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Proleukin® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of

Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Proleukin®. Proleukin® (aldesleukin) is indicated for adult metastatic renal cell carcinoma. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Proleukin® (U.S. Patent No. Re. 33,653) from Cetus Oncology Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated July 20, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Proleukin® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Proleukin® is 2,955 days. Of this time, 1,708 days occurred during the testing phase of the regulatory review period, while 1,247 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 4, 1984. The applicant claims April 4, 1984, as the date the investigational new drug application (IND) became effective. FDA has verified the applicant's claim that the date the IND became effective was April 4, 1984.

2. *The date the application was initially submitted with respect to the human drug product under section 351 of the Public Health Service Act:* December 6, 1988. The applicant claims November 30, 1992, as the date the product license application (PLA 88–0660) was initially submitted. However, FDA records indicate that the PLA was received on December 6, 1988.

3. *The date the application was approved:* May 5, 1992. FDA has verified the applicant's claim that PLA 88–0660 was approved on May 5, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 3 years and 350 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 19, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 16, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 28, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92–27503 Filed 11–16–92; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Since it is necessary to schedule meetings well in advance, it is suggested that anyone planning to attend a meeting contact the Scientific Review Administrator to obtain meeting information and to confirm the exact date, time, and location.

Name of Panel: NHLBI SEP on Small Grant Program (RO3).

Scientific Review Administrator: Dr. Lynn M. Amende.

Telephone Number: 301–496–8818.

Dates of Meeting: November 30—December 1, 1992.

Place of Meeting: Bethesda Hyatt Regency, Bethesda, Maryland.

Time of Meeting: 10 p.m.

Reason for Closure: To review individual grant applications.

Name of Panel: NHLBI SEP on Health Outcomes of Psychosocial Interventions (Conference Phone Call).

Scientific Review Administrator: Dr. C. James Scheirer.

Telephone Number: 301–496–7363.

Dates of Meeting: November 30, 1992.
Place of Meeting: Westwood Building—room 548, 5333 Westbard Avenue, Bethesda, Maryland.
Time of Meeting: 3:30 p.m.
Reason for Closure: To review individual contract proposals.
Name of Panel: NHLBI SEP on RFP for Cardiovascular Health Study (CHS).
Scientific Review Administrator: Dr. Lynn M. Amende.
Telephone Number: 301–496–8818.
Dates of Meeting: November 30—December 1, 1992.
Place of Meeting: Bethesda Hyatt Regency, Bethesda, Maryland.
Time of Meeting: 7 p.m.
Reason for Closure: To review individual contract proposals.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: November 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–27754 Filed 11–16–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Meeting of the Board of Scientific Counselors, NICHD

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 4, 1992, in Building 31, room 2A52.

This meeting will be open to the public from 9 a.m. to 12 noon on December 4 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on December 4 from 1 p.m. to adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, 6100 Executive Boulevard, room 5E03, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members, and substantive program information upon request.

Dated: November 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–27771 Filed 11–16–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committee of the National Institute of Mental Health for December 1992.

The meeting of the National Advisory Mental Health Council will be open to the public for the discussion of NIMH policy issues and will include current administrative, legislative, and program developments.

The meeting of the initial review group will be closed to the public as determined by the Director, NIH, and as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meetings and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, National Institutes of Health, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: National Advisory Mental Health Council.
Meeting Date: December 3–4, 1992.
Place: Conference Room 10, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.
Open: 9 a.m. on December 3 to adjournment on December 4.
Contact: Carolyn Strete, Ph.D., room 9–105, Parklawn Building, Telephone (301) 443–3367.

Committee Name: Neuroscience Subcommittee, Mental Health Special Projects Review Committee.
Meeting Date: December 10–11, 1992.
Place: Embassy Suites, 4300 Military Road, NW., Washington, DC 20015.
Open: December 10, 8–8:30 a.m.
Closed: December 10, 8:30 a.m., to adjournment on December 11.
Contact: Helen D. Craig, room 9C–18, Parklawn Building, Telephone (301) 443–3936.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: November 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–27773 Filed 11–16–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Nomination Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Nomination Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on December 7, 1992. The meeting will take place from 10 a.m. to 11 a.m. (E.S.T.) in Conference Room 3C07, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference call with the use of a speaker phone.

In accordance with provisions set forth in section 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public to discuss the nomination of the Chairperson of the National Deafness and Other Communication Disorders Advisory Board and the nomination of the Advisory Board Liaison to the National Deafness and Other Communication Disorders Advisory Council. This discussion could reveal personal information concerning members of the Advisory Board, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A roster of the Subcommittee's members may be obtained from Ms. Monica M. Davies, Executive Director, National Deafness and Other Communication Disorders Advisory

Board, Building 31, Room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402–1129, upon request.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Other Communicative Disorders.)

Dated: November 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–27772 Filed 11–16–92; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Drug Testing Advisory Board; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board.

The Drug Testing Advisory Board will be performing reviews of National Laboratory Certification Program inspections and operations; therefore, portions of this meeting will be closed to the public as determined by the Acting Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c) (2), (4), and (6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and roster of committee members may be obtained from: Ms. Peggy Cockrill, SAMHSA Committee Management Officer, Substance Abuse and Mental Health Services Administration, Parklawn Building, room 13–103, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4266).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: Thursday, December 3, 1992.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: 8:30 a.m. to 10:15 a.m.

Closed: Otherwise.

Contact: Donna Bush, Room 9A–53, Parklawn Building, Telephone (301) 443–6014.

Dated: November 10, 1992.

Peggy W. Cockrill,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 92–27796 Filed 11–16–92; 8:45 am]

BILLING CODE 4160–20–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–030–03–4210–05; IDI–29331]

Little Lost/Birch Creek Management Framework Plan (MFP); Planning Amendment

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to prepare a planning amendment to the Little Lost/Birch Creek Management Framework Plan (MFP).

SUMMARY: The following described public land in Butte County, Idaho, will be examined for possible disposal by direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719.

Boise Meridian, Idaho

T. 5 N., R. 29 E.,
Sec. 5, NE¼SE¼.

The land described above contains 40 acres, more or less.

An environmental assessment will be completed for this action. If the land is found suitable for disposal, the United States would offer it for direct sale to Butte County at fair market value. This action would provide Butte County with land for a sanitary landfill. The public is invited to provide scoping comments on the issues that should be addressed in the planning amendment and environmental assessment. Planning criteria which will be used to prepare this planning amendment is available for review at the Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho.

For a period of 30 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, (208) 524–7500.

Dated: November 9, 1992.

Gary L. Bliss,

Acting District Manager.

[FR Doc. 92–27804 Filed 11–16–92; 8:45 am]

BILLING CODE 4310–GG–M

[ID–010–03–4210–05]

Cascade Resource Management Plan; Intent to Amend

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to amend the Cascade Resource Management Plan, Idaho

SUMMARY: Pursuant to the BLM Planning Regulations (43 CFR part 1600) this notice advises the public that the Cascade Resource Area of the Boise District, Bureau of Land Management, is proposing to amend the Cascade Resource Management Plan and consider three land sales and a land exchange. They are:

1. A proposal to identify for possible sale the following tracts of public land:

Boise Meridian, Idaho

T. 7 N., R. 2 E,
Sec. 33, 10 acres within Lot 1;
T. 6 N., R. 1 W.,
Sec. 27, w½SW¼,
Sec. 28, E½SE¼,
Sec. 33, N½NE¼NE¼,
Sec. 34, N½NW¼NW¼;
T. 2 N., R. 3 W.,
Sec. 21, S½SE¼SW¼.

2. A proposal to exchange the following public and private lands:

Private Lands

Boise Meridian

T. 5 N., R. 1 E.,
Sec. 14, S½NW¼, NW¼SW¼,
Sec. 22, S½SW¼, containing approximately 160 acres.

Public Lands

Boise Meridian

T. 5 N., R. 1 E.,
Sec. 21, S½NW¼, NW¼SW¼, S½SE¼, containing approximately 200 acres.

The main issues anticipated in this plan amendment are: (1) Whether it is in the public interest to sell any or all of the subject tracts; and (2) whether the proposed exchange is in the public interest.

A land use plan amendment and environmental analysis will be prepared for the subject lands by an interdisciplinary team including range, wildlife, hydrology, soils, recreation, minerals, forestry, and cultural resource specialists.

DATES: Interested parties may submit comments to the District Manager at the address shown below on or before January 4, 1993.

ADDRESSES: Comments should be sent to the District Manager, Bureau of Land Management, Boise District, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: John Fend, Cascade Resource Area Manager, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, (208) 384–3300 to obtain additional information regarding this plan amendment. The existing land use plan and maps are available for review

at the Cascade Resource Area office in Boise, Idaho.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** will segregate the public lands described in Item Numbers 1 and 2 from the public land laws, including the mining and mineral leasing laws. The segregative effect of this Notice on the public lands in Item Number 1 shall end upon issuance of patent, or 270 days from the date of this publication, whichever occurs first. The segregative effect of this Notice on the public lands in Item Number 2 shall end upon issuance of patent, or two (2) years from the date of this publication, whichever occurs first.

Dated: November 5, 1992.

Roger E. Schmitt,

Associate District Manager.

[FR Doc. 92-27817 Filed 11-16-92; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032-0004), Washington, DC 20503, telephone 202-395-7340.

Title: Nonferrous Metals Surveys.

OMB Approval Number: 1032-0004.

Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Surveys, Volumes I, II, and III of the Minerals Yearbook, and Mineral Commodity Summaries for use by private organizations and other Government agencies.

Bureau Form Number: 6-1151-MA et al. (32 forms).

Frequency: Monthly, Quarterly, and Annual.

Description of Respondents: Producers and Consumers of Nonferrous Metals.

Annual Responses: 11,043.

Annual Burden Hours: 13,114.

Bureau Clearance Officer: Alice J. Wissman 202-501-9569.

Dated: October 15, 1992.

John A. Breslin,

for Director, Bureau of Mines.

[FR Doc. 92-27799 Filed 11-16-92; 8:45 am]

BILLING CODE 4310-53-M

National Park Service

Civil War Sites Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on Friday, December 4, 1992, at the State Capital Annex Building, Third Floor Conference Room, 1051 3rd Street, Baton Rouge, LA 70804. The meeting will begin at 1 p.m. and conclude before 5 p.m.

This meeting continues the 12th meeting of the Commission. The primary focus of the meeting will be on the Commission's draft report. The Commission will welcome input from the public on the subject of Civil War site evaluation and preservation, especially as it relates to Civil War sites in Louisiana and surrounding states.

Space and facilities to accommodate members of the public may be limited and persons will be accommodated on a first-come, first-served basis. Anyone may file a written statement with the Commission concerning matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Ms. Jan Townsend, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013-7127 (telephone (202) 343-3936). Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting, in suite 250, 800 N. Capitol St., NW., Washington, DC 20002.

Dated: November 10, 1992.

Lawrence E. Aten,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 92-27739 Filed 11-16-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development and Economic Cooperation; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundred and Thirteenth Meeting of the Board for International Food and Agricultural Development and Economic Cooperation (BIFADEC) on December 10, 1992 from 8 a.m. to 3 p.m.

The purposes of the meeting are: (1) To hear a report about the University Center activities; (2) to discuss the Project Paper of the Higher Educational Development Project; (3) to consider recommendations on the future of foreign assistance; (4) to hear a report on the status of some A.I.D. Policy Papers; (5) to receive a report on A.I.D. famine programs; (6) to discuss the directions of A.I.D. Programs in Africa; and (7) hear the views of A.I.D. on the BIFADEC Budget Panel Report.

This meeting will be held in Pan American Health Organization Building located at 525 23rd Street (between 23rd and Virginia Avenue), Washington, DC 20037. At this address it will be held in Conference Room C. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent time available for the meeting permits.

C. Stuart Callison, Deputy Executive Director, Agency Center for University Cooperation in Development, Bureau for Research and Development, Agency for International Development, will be the A.I.D. Advisory Committee Representative at this Meeting. Those desiring further information may write to Dr. Callison, in care of the Agency for International Development, room 900 SA-38, Washington, DC 20523-3801 or telephone him on (703) 816-0258.

Dated: October 5, 1992.

Ralph H. Smuckler,

Executive Director, Agency Center for University Cooperation in Development.

[FR Doc. 92-27751 Filed 11-16-92; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32174]

Los Angeles County Transportation Commission—Trackage Rights—Southern Pacific Transportation Co.

Southern Pacific Transportation Company (SP) has agreed to grant overhead trackage rights to Los Angeles County Transportation Commission between the commuter rail interlocker at milepost 479.6 in Taylor Yard and milepost 481.13 ("Bridge 5"), a distance of 1.53 miles all in Los Angeles County, California. The exemption became effective on October 23, 1992, and the parties intend to consummate the transaction on or after this date. A related proceeding is Finance Docket No. 32175, Southern Pacific Transportation Company—Trackage Rights—Los Angeles County Transportation Commission, the notice for which was filed on October 16, 1992.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik, HOPKINS & SUTTER, Suite 700, 888 16th Street, NW., Washington, DC 20006.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

We note that LACTC alleges that we lack jurisdiction over the transaction because the trackage rights relate solely to wholly intrastate passenger service. The Commission will subsequently address this jurisdictional issue.[1] If we find that jurisdiction is lacking, a decision vacating this exemption will be issued.

Dated: November 10, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27833 Filed 11-16-92; 8:45 am]

BILLING CODE 7035-01-M

[1] This issue has arisen in Docket No. AB-12 (Sub-No. 139X) *et al.*, Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA, 8 I.C.C. 2d 495 (1992), in which a petition for reconsideration has been filed. The issue has also arisen in Finance Docket No. 32173.

[Finance Docket No. 32172 (Sub-No. 1)]

Los Angeles County Transportation Commission—Trackage Rights—the Atchison, Topeka and Santa Fe Railway Co.

The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) has agreed to grant trackage rights to the Los Angeles County Transportation Commission (LACTC) for passenger service on the San Bernardino Subdivision between milepost 143.19 at Redondo Junction and milepost 160.3, a distance of 17.11 miles all in Los Angeles County, California. The exemption became effective on October 23, 1992, and the parties intend to consummate the transaction on or after this date. In a related proceeding, the Commission is considering Santa Fe's petition for exemption filed on October 16, 1992 in Finance Docket No. 32172, Los Angeles County Transportation Commission—Acquisition Exemption—The Atchison, Topeka and Santa Fe Railway Company.[1]

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik, Hopkins & Sutter, Suite 700, 888 16th Street, NW., Washington, DC 20006.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

LACTC alleges that the Commission lacks jurisdiction over this transaction because the easement relates solely to wholly intrastate passenger service. LACTC did not ask us to dismiss this notice, however. This Commission will address this jurisdictional issue separately.[2] If this Commission finds that jurisdiction over this transaction is lacking, a decision vacating this exemption will be issued.

Dated: November 10, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27834 Filed 11-16-92; 8:45 am]

BILLING CODE 7035-01-M

[1] Santa Fe has also agreed to grant trackage rights and certain property interests in its lines to five Los Angeles area transportation agencies other than LACTC: see the notice of exemption filed on October 16, 1992 in Finance Docket No. 32173.

[2] This issue has arisen in Docket No. AB-12 (Sub-No. 139X) *et al.*, Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA, 8 I.C.C.2d 495 (1992), in which a petition for reconsideration has been filed. The issue has also arisen in the notice filed on October 16, 1992 in Finance Docket No. 32173.

[Ex Parte No. 347 (Sub-No. 2)]

Rate Guidelines—Non-Coal Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed guidelines.

SUMMARY: The Commission is seeking comment on proposed simplified guidelines for determining maximum rail rate reasonableness in proceedings involving relatively low-volume or infrequent shipments.

DATES: Comments must be filed by January 15, 1993. Comments should be served on all parties of record.

ADDRESSES: Send an original and 15 copies of comments to: Office of the Secretary, Case Control Branch, Attn: Ex Parte No. 349 (Sub-No.2), Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leslie J. Selzer, (202) 927-6181. [TDD for hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: This proceeding was initiated by a notice served May 21, 1986, in which the Commission solicited comments on whether the principles of Constrained Market Pricing (CMP) should be applied to commodities other than coal. On April 8, 1987, the Commission sought public comment on two specific simplified maximum rate standards: The Revenue to Variable Cost (R/VC) test and the Formula Replacement Cost (FRC) methodology.

The Commission's continuing investigation into simplified methodologies has resulted in the development of two additional benchmark ratios: the Revenue Shortfall Allocation Method (RSAM) and the average of revenue to variable cost ratios of all traffic potentially subject to the Commission's rate reasonableness jurisdiction (average $R/VC_{>1.8}$). In addition to these two benchmark ratios, the Association of American Railroads (AAR) has proposed a simplified stand-alone cost (SSAC) test. The Commission

seeks comments on all of these simplified maximum rate guidelines.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call, or pick-up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 927-7428. Assistance for the hearing impaired is available through TDD services (202) 927-5721.

We tentatively conclude that the proposed action will not have a substantial adverse impact upon a significant number of small entities.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10701a.

Decided: October 30, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Emmett did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27835 Filed 11-16-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32175]

Southern Pacific Transportation Co.; Trackage Rights; Los Angeles County Transportation Commission; Exemption

Los Angeles County Transportation Commission has agreed to grant local trackage rights to Southern Pacific Transportation Company between (1) Moorpark (milepost 426.4) and Burbank Junction (milepost 462.45) and (2) north of Saugus (milepost 448.0) and Fletcher Drive (milepost 478.21), a total distance of 66.26 miles in Ventura and Los Angeles Counties, California. The exemption became effective on October 23, 1992, and the parties state their intent to consummate the transaction on or after this date.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary Laakso, General Attorney, Southern Pacific Transportation Co., Southern Pacific Building, Room 846, One Market Plaza, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western R. Co.—Trackage Rights-BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: November 10, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27832 Filed 11-16-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202) 219-5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 (202) 395-6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Employment Standards Administration
Federal Black Lung Benefits Verification CM-99 A, B, and C
Annually
Individuals or households

Form burden	Respondents	Average time per response	Total hours
CM 999A	6,480	5 minutes	540
CM 999A (update).	720	8 minutes	96
CM 999B	4,590	3 minutes	230
CM 999B (update).	510	5 minutes	43
CM 999C	27,000	3 minutes	1,350
CM 999C (update).	3,000	5 minutes	250
Total hours.			2,509

To help determine continuing eligibility of primary beneficiaries receiving monthly monetary benefits and/or medical benefits from a responsible coal mine operator. To update and verify on an annual basis factor that affect a beneficiary's entitlement to benefits.

Revision

Pension Welfare Benefits Administration
Alternative Method of Compliance for Certain Simplified Employee Pensions
1210-0034

Businesses or other for-profit; Small businesses or organizations As the result of the February 21, 1990, Supreme Court Decision, 110 S. Ct. 929, 58

(U.S.L.W. 4200), PWBA is no longer seeking Office of Management and Budget (OMB) clearance for those paperwork activities involving the employer and the third party (employee) disclosure contained in 29 CFR 2520.104–49.

Bureau of Labor Statistics

Employment Cost Index
1220–0038; BLS 3038 A, B, C, D, E/T, and E/M
Quarterly
State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations 6,646 respondents; .6676 hours per response; 15,315 total hours; 6 forms.

The Employment Cost Index (ECI) measures the trend in employee compensation costs. The ECI is used to analyze the relationship between changes in productivity, employment output prices, and compensation costs. The survey covers the private nonfarm economy and State and local governments.

Bureau of Labor Statistics

National Longitudinal Survey of Youth
1220–0109
Annually
Individuals or households
9,010 responses; 35 minutes per response; 5,256 total hours; 1 form

The information provided in this survey will be used by the Department of Labor and other government agencies to help understand and explain the employment, unemployment, and related problems faced by young men and women in this age group.

Extension

Employment and Training and Administration
Interstate Arrangement for Combining Employment and Wages 1205–0170; IB4, 5, and 6

Form	Affected public	Respondents	Frequency	Average time per response
IB–4	State/local Govt	53	As needed	11 minutes.
IB–5	do	53	As needed	5 minutes.
IB–6	do	53	Quarterly	20 minutes.
Total hours				25,233.

These forms are used for administrative purposes to transfer data pertaining to claims filed under the Interstate Arrangement for combining Employment and Wages.

Employment and Training Administration

Contribution Operations
1205–0178; ETA 581
Quarterly
State or local governments
53 respondents; 5 hours per response; 1,060 total hours; 1 form

The Contributions Operations Report (ETA 581) is a comprehensive report of each State's Unemployment Insurance tax operations and is essential in providing quarterly tax operations performance data to the Department of Labor, Employment and Training Administration.

Employment and Training Administration

1205–0318; ETA 9038
Quarterly; annually
State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations

The information will be used to assess Defense Conversion Adjustment Programs and Clean Air Employment Transition Assistance Programs.

Bureau of Labor Statistics

Manual for Developing Local Area Unemployment Statistics (LAUS)
1220–0017, BLS 3040 LAUS–2, LAUS–3
Monthly
State or local governments

	Respondents	Annual responses	Hrs. per responses	Annual burden
LAUS–2	5,251	63,012	2.17	136,736
LAUS–3	389	4,668	0.11	513
Total hours				137,249

Local Area Unemployment Statistics are used as indicators of local economic conditions, as a mechanism to qualify areas for various economic assistance, and as an allocator for existing job training and economic assistance program funding.

Bureau of Labor Statistics

Report on Occupational Employment
1220–0042; BLS 2877
Annually
State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations 229,000 respondents; .56 hours per response; 128,240 total hours

The OES survey program is a Federal/State sample survey of employment by occupation in nonfarm establishments that is used to produce data on current occupational employment and is a component in the development of employment and training programs and occupational information systems.

Bureau of Labor Statistics

Census of Fatal Occupational Injuries (CFOI)
1220–0133; BLS–CFOI

Form	Affected public	Respondents	Frequency	Average time per response
BLS–CFOI	* see below	2,500	one-time	20 minutes.
Source documents	Federal, State, local agencies	165	152	10 minutes.

Form	Affected public	Respondents	Frequency	Average time per response
Total hours				5,000.

* Individual or household; State or local governments; Farms; Businesses or other for/profit; institutions; Small businesses or organizations.

The Census of Fatal Occupational Injuries will provide policymakers and the public with a comprehensive, accurate, and timely measure of work-injury facilities. The system will collect demographic information about the deceased, characteristics of the employer, and information concerning the incident.

Reinstatement

Bureau of Labor Statistics
Unemployment Insurance Data Base Survey
1220-0080 (Expired July 31, 1984); BLS 3068
On occasion (every 7 to 19 years)
State or local governments
52 respondents; 24 hours per response; 1,248 total hours; 1 form

The UI Data Base Survey will describe the development to UI statistics, determine adherence to standard labor force concepts and identify problems with the data and its development. The UI statistics are essential elements in the Local Area Unemployment Statistics and the Mass Layoff Statistics programs. This information, not available elsewhere, will be the basis of UI data improvement and quality control efforts.

Bureau of Labor Statistics
National Longitudinal Survey of Work Experience of Young Women
1220-0110
Biennially
Individuals or households

Forms	Respondents	Per response
LGT-4161	4,023	60
LGT-4163(L)	402	5
Total hours		4,507

The information provided in this survey will be used by the Department of Labor and other government agencies to help understand and explain the employment, unemployment, and related problems faced by women 39-49. These women were 14-24 years of age when this longitudinal survey began in 1968.

Signed at Washington, DC this 10th day of November, 1992.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 92-27781 Filed 11-16-92; 8:45 am]

BILLING CODE 4510-24-M, 4510-30-M

Employment and Training Administration

[TA-W-27,557]

Blocker Services, Inc., Alice, TX; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 23, 1992 applicable to all workers of Blocker Services, Inc., Alice, Texas. The Notice was published in the **Federal Register** on October 6, 1992 (57 FR 46049).

At the request of the State Agency the Department reviewed the subject certification. New findings show that the claimants' wages were reported under the Unemployment Insurance (UI) tax account for Bolivar Energy. The findings also show that the workers were laid off by Blocker Services for lack of work in adversely affected employment.

The amended notice applicable to TA-W-27,557 is hereby issued as follows:

All workers who were laid off, whether totally or partially, for lack of work in adversely affected employment by Blocker Services, Inc., Alice, Texas on or after June 2, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of November 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-27778 Filed 11-16-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,205]

Mallard Bay Drilling, Inc., Lafayette, LA., et al; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In the matter of TA-W-27, 205A Bay Drilling Corporation, Houma, LA. TA-27,205B E.V. Offshore Inc., New Iberia, LA.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 2, 1992, applicable to all workers of Mallard Bay Drilling, Inc., Lafayette, Louisiana. The certification notice was published in the **Federal Register** on July 28, 1992 (57 FR 33368).

At the request of the State Agency, the Department reviewed the certification for workers of Mallard Bay Drilling, Inc. The investigation findings show that the claimants' wages for Mallard Bay Drilling are being reported under Mallard Bay Drilling, Lafayette, Louisiana; Bay Drilling Corporation, Houma, Louisiana and E.V. Offshore, Inc., New Iberia, Louisiana.

Accordingly, the Department is amending the certification to properly reflect the correct worker groups.

The intent of the Department's certification is to include all workers of Mallard Bay Drilling, Inc., Bay Drilling Corporation and E.V. Offshore irrespective to which account their unemployment insurance (UI) taxes are paid.

The amended notice applicable to TA-27,205 is hereby published as follows:

All workers of Mallard Bay Drilling, Inc., Lafayette, Louisiana, a/k/a/ Bay Drilling Corporation, Houma, Louisiana and a/k/a E.V. Offshore, Inc., New Iberia, Louisiana who became totally or partially separated from employment on or after April 23, 1991, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-7779 Filed 11-16-92; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of October 1992.

In order for an affirmative determination to be made and a

certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealing that Criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,706; Prestolite Electric, Inc., Gainesville, GA

TA-W-27,724; Prestolite Electric, Inc., Cleveland, OH

TA-W-27,587 Koike Aronson, Inc., Arcade, NY

TA-W-27,619; Armco Steel Co., L.P. Ashland, KY

TA-W-27,503; Garment Plus Co., Newark, NJ

TA-W-27,506, TA-W-27,507; Duwel Products, Inc., Inverness Castings Group, Hartford, MI and Bangor, MI

TA-W-27,718; Lau, Div., of Tomkins Industries, Cleveland, OH

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-27,697; Coombs Machinery, Inc., Whitehall, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-27,807; Carter Jasper Co., Jasper, GA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,893; Yegan Associates, Inc., Schaumburg, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-27,740; Martin Automatic Fishing Reel Co., Mohawk, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,588; ABB Vitco Gray, Inc., Harvey, LA

U.S. imports of oil and gas field machinery were negligible in the relevant period.

TA-W-27,692; Laurel Metal Processing, Inc., Johnstown, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-27,720; Miller Energy, Inc., Kalamazoo, MI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-27,783; Texas Instruments Data Systems Div., Eden Prairie, MN

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-27,784; Case-Pomeroy Oil Corp., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-27,631; Hollytex Carpet Mills, Inc., Anadaroko, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-27,594; Dundee Wire and Manufacturing, Dundee, MI

A certification was issued covering all workers separated on or after January 1, 1991.

TA-W-27,729, TA-W-27,730, TA-W-27,731; Maidenform, Inc., Bayonne, NJ, Bayonne, NJ, Edison, NJ

A certification was issued covering all workers separated on or after August 20, 1991.

TA-W-27,735; Total Minatome Corp., Houston, TX and Chalmette, LA

A certification was issued covering all workers separated on or after August 19, 1991.

TA-W-27,700; B-W Footwear Co., Inc., Webster, MA

A certification was issued covering all workers separated on or after August 14, 1991.

TA-W-27,843; BDK Drilling Co., Victoria, TX

A certification was issued covering all workers separated on or after September 10, 1991.

TA-W-27,685; Granite Finishing Plant, Haw River, NC

A certification was issued covering all workers separated on or after August 13, 1991.

TA-W-27,743; Hercules, Inc., Kenvil, NJ

A certification was issued covering all workers separated on or after August 5, 1991.

TA-W-27,514; Baumfolder Corp., Sidney, OH

A certification was issued covering all workers separated on or after July 9, 1991.

TA-W-27,790; Charles Komar & Sons Seamprufe, Holdenville, OK

A certification was issued covering all workers separated on or after August 24, 1991.

TA-W-27,776; Halliburton Geophysical Services, Inc., Houston, TX and Operating at Various Other Locations in The Following States: A; AK, B; CA, C; CO, D; LA, E; MS, F; NV, G; NM, H; OR, I; TX, J; WA, K; WY

A certification was issued covering all workers separated on or after August 17, 1991

TA-W-27,749; RPM Clothing, Inc., Greensboro, GA

A certification was issued covering all workers separated on or after September 14, 1991.

TA-W-27,813; Centra Leathergoods of Oklahoma, Frederick, OK

A certification was issued covering all workers separated on or after September 3, 1991

I hereby certify that the aforementioned determinations were issued during the month of October 1992 Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: November 9, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-27780 Filed 11-16-92; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 27, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 27, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 2nd day of November 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Santa Fe International Drilling (Wkrs)	Houston, TX	11/2/92	5/12/92	27,945	Oil, Gas Drilling.
John L. Cox (Wkrs)	Oklahoma City, OK	11/2/92	10/13/92	27,946	Oil and Gas.
Shallow Production, Inc (Co)	Evanston, WY	11/2/92	10/19/92	27,947	Oil Equipment.
Gates Rubber Co (Wkrs)	Denver, CO	11/2/92	10/14/92	27,948	Cord Treating.
Dyna Turn of Oklahoma, Inc (Wkrs)	Elk City, OK	11/2/92	10/13/92	27,949	Rigid Computer Disks.
Willamette Industries, Inc (Co)	Veneta, OR	11/2/92	10/20/92	27,950	Sanded Plywood.
USS/Kobe (USWA)	Lorain, OH	11/2/92	10/20/92	27,951	Steel Bar and Oil Country Goods.
Austin Powder Co (Wkrs)	McArthur, OH	11/2/92	10/21/92	27,952	Detonators.
Hamilton Beach Proctor Silex, Inc (Co)	Clinton, NC	11/2/92	10/16/92	27,953	Electric Motors for Blenders, Mixers.
Intershoe, Inc. D.I.P. (Wkrs)	Millersburg, PA	11/2/92	10/21/92	27,954	Wholesale Footwear Service.
Intershoe, Inc. D.I.P. (Wkrs)	Harrisburg, PA	11/2/92	10/21/92	27,955	Wholesale Footwear Service.
Oil Technology Services, Inc (Wkrs)	Houston, TX	11/2/92	10/23/92	27,956	Oil Services.
Artos Engineering (Wkrs)	New Berlin, WI	11/2/92	10/18/92	27,957	Machine and Component Assembling.
Engineered Well Services, Inc (Co)	Prudhoe Bay, AK	11/2/92	10/5/92	27,958	Oil Service.
Penzoil Sulphur Co (Co)	Pecos, TX	11/2/92	10/26/92	27,959	Sulphur.
Penzoil Sulphur Co (Co)	Galveston, TX	11/2/92	10/26/92	27,960	Sulphur.
Brown Shoe Company (Wkrs)	Salem, IL	11/2/92	10/19/92	27,961	Footwear.
Evelyn Pearson Div. of Leslie Faye (ILGWU)	Brooklyn, NY	11/2/92	10/22/92	27,962	Ladies Robes and Pajamas.

[FR Doc. 92-27777 Filed 11-16-92; 8:45 am]
BILLING CODE 4510-30-M

Federal State Unemployment Compensation Program; State Employment Services Program; Acquisition, Use, and Disposition of Real Property by States

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice and request for comments on proposed policy guidance and interpretations of Department of Labor requirements for administering State Employment Security Agency (SESA) real property.

SUMMARY: The Employment and Training Administration proposes to issue policy guidance and interpretations of Department of Labor (DOL) requirements which apply to the acquisition, use, and disposition of real property (land and buildings) acquired by States with Unemployment Compensation and Employment Service granted funds. The intent is to clarify the Federal requirements related to accounting for and controlling DOL equity in real property financed with Reed Act funds or with grant funds provided to the States for administering the Unemployment Compensation and Employment Service programs. This notice explains the proposed interpretations and requests comments from all interested parties.

DATES: Comments must be received in the Department of Labor by the close of business on December 17, 1992.

ADDRESSES: Submit comments in writing to David T. Duncan, Comptroller, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room S-5207, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Erica Cantor, Financial Management Specialist, Division of Fiscal Policy, Office of the Comptroller, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., room C-5317, Washington, DC 20210. Telephone number (202) 219-5762 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

For many years, States have used grant funds provided under the title III of the Social Security Act and the Wagner-Peyser Act to acquire office space rather than least it. The objective is to reduce the overall costs of administering the Federal-State Unemployment Compensation (UI) and Employment Service (ES) programs. Typically, office space for these two employment security programs if purchased or constructed using funds provided from other sources. UI and ES grant funds are then used to amortize (repay) the original financing source(s).

Reed Act funds transferred to the accounts of the States in the Unemployment Trust Fund pursuant to section 903 of the Social Security Act have been an especially popular source of original financing. Each acquisition of real property with Reed Act funds must be authorized by a State appropriation

act which meets specified conditions. Used in conjunction with amortization arrangements, Reed Act funds provide the capital for a revolving fund in each State for the acquisition of real property. Reed Act funds also are provided at no cost to the State, except earnings lost due to withdrawal from the Unemployment Trust Fund.

States have used amortization arrangements to acquire several hundred pieces of real property worth hundreds of millions of dollars. There is DOL equity in most of these properties due to the use of grant funds to amortize the acquisition cost of the properties. OMB Circular No. A–87 (46 FR 9548–9554, Jan. 28, 1981) and DOL's regulation at 29 CFR 97.31 require a State to compensate DOL for its equity in real property when the property is no longer needed for employment security purposes. Compensation is accomplished by making a cash payment to DOL for its share of the property's fair market value as of the time of property disposition. In cases where real property has been acquired with a State's Reed Act funds but not amortized, equity in the property remains with the State's unemployment fund, which must be compensated upon disposition.

A review during 1989 by DOL's Office of Inspector General (OIG) of DOL's equity/basis in SESA real property (Audit Report No. 04–90–002–03–325) found weaknesses in several States' real property management procedures and in DOL oversight of SESA real property management. The OIG found that there had been too little DOL involvement in SESA real property management and that the guidance and direction furnished SESAs on real property management was confusing and inconsistent with OMB guidelines.

In order to remedy these weaknesses, the Employment and Training Administration (ETA) is taking a number of actions, including issuing a General Administration Letter (GAL), a draft of which is printed below, to provide better guidance and direction to SESAs on real property acquisition, use, and disposition requirements. The draft GAL interprets the statutory, regulatory, and manual requirements cited in the following paragraph and applies them to certain frequently recurring situations involving SESA real property. ETA is soliciting comments on the draft GAL from all interested parties.

DOL's requirements for real property acquisition procedures when using grant funds are at 29 CFR 97.36(a). Real property acquisitions are also subject to the allowable costs requirements of OBM Circular No. A–87. DOL's requirements for the use and disposition of real property acquired (or amortized) with grant funds are at 29 CFR 97.31. Section 903(c) of the Social Security Act sets forth limitations on the States' use of Reed Act funds. DOL's interpretations of these requirements appear in Chapter 3000, Part IV of the Employment Security Manual, an ETA publication provided to SESAs. GALs and other program letters that interpret the applicable requirements are sent to SESAs from time to time to provide additional guidance and direction.

B. Principal Issues

1. Reed Act Requirements

DOL's prior interpretations of requirements pertaining to property acquired with Reed Act funds provide extensive guidance on the acquisition and utilization of the property but no guidance on disposition or the treatment of proceeds of a disposition action. When questions have arisen on issues not addressed by these interpretations, it has been DOL's practice to apply the requirements of 29 CFR 97.31 to the maximum extent feasible. The only situations where these principles would not be applied are those where they conflict with the provisions of section 903(c) of the Social Security Act. One of DOL's objectives in issuing this GAL is to provide SESAs with more complete instructions on the use and disposition of real property acquired with Reed Act funds.

2. Property Acquired With Grant Funds Before October 1, 1988

29 CFR part 97 became effective on October 1, 1988. Prior to that, the use and disposition of real property acquired or amortized with DOL grant funds were governed by DOL regulations at 41 CFR 29–70.215–2 (b) and (c) (44 FR 42920–42955, July 20, 1979). One significant difference between 41 CFR part 29–70 and 29 CFR part 97 is that the former allows DOL to authorize the use of SESA real property for non-employment security purposes whereas the latter does not. In order to prevent differences between the two regulations from increasing the administrative burden on grantees, provisions making 29 CFR part 97 applicable to real property acquired before October 1, 1988, have been inserted into the UI Program and Budget Plans (PBP) for 1990, 1991 and 1992 (ETA Handbook 336, 6th, 7th and 8th editions) and the ES Reimbursable Grant Agreement. The draft GAL informs SESAs of the applicability of 29 CFR part 97 to real property acquired with any ES as well as UI grant funds prior to October 1, 1988. Property acquired with Reed Act funds is affected only to the extent that such property has been amortized with grant funds.

3. Prior Approval

DOL's regulation at 20 CFR 652.8(d)(2) 'delegates' Federal prior approval authority for the purchase of real property with ES grant funds to the States; a similar 'delegation' for the UI program appeared in the 1989 and 1990 application forms for UI grant funds (UI Program and Budget plan, ETA Handbook 336, 5th and 6th editions). One of the OIG review recommendations was to restore the requirement for prior DOL approval of SESA real property acquisitions in order to provide greater control over Federal equity and to prevent improper acquisitions of real property. ETA concurs with the OIG recommendation. No rulemaking action is necessary to restore the prior approval requirement since 29 CFR 97.5 explicitly provides that "All other grants administration provisions of codified program regulations, program manuals, handbooks and the nonregulatory materials which are inconsistent with this part are superseded * * *." The draft GAL takes the position that DOL prior approval will be required for the purchase or acquisition of real property with grant funds. DOL prior approval is not required for purchase of real property with Reed Act funds.

4. Contributed Land

Some of the amortization agreements reviewed by OIG provided for the construction of buildings on land made available at no cost (contributed) by the States. To the best of our knowledge, none of these agreements specified how the equities (financial interests) of DOL and the State in such real property are to be treated in the event the property ceased to be used for employment security purposes. Neither did other documents. Disputes have already arisen over this issue.

29 CFR 97.3 defines real property as "land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment". The real property disposition requirements at 29 CFR 97.31(c)(1) and (2) direct the grantee to compensate the awarding agency on the basis of "the awarding agency's percentage of participation in the cost of the original purchase * * *." There is no exception in the regulation for contributed land situations. There was also no exception for contributed land in DOL's previous regulation on real

property disposition (41 CFR 29–70.215–2), or in the related provisions of the Employment Security Manual (Sections 2520–2526, Part IV, ESM).

DOL believes it is in the best interest of all parties to clarify the treatment of contributed land in computing the equities in SESA real property. The draft GAL therefore provides that if UI and/or ES grant funds are used to amortize the cost of constructing a building on contributed land, the fair market value of the land, at the time of contribution, will be counted as a cost contribution toward the total cost of the property (land and building) when determining the respective equities in the property, unless there is clear written evidence of an agreement between DOL and the State that the contributed land was not to be included in any settlement of the equities when the property ceased to be used for employment security purposes.

5. Capital Improvements

Where capital improvements that materially increase the value or useful life of real property are to be made to real property with Federal equity, or where funding of capital improvements would create Federal equity, DOL may require that the fair market value of that property be determined at the time of and as a result of the improvement. This will enable DOL to acknowledge changes in the Federal share. The GAL establishes thresholds and circumstances under which DOL may exercise this right.

6. Changes in Utilization

In general, the use of grant funds for program costs is based on benefit to the grant program, in accordance with OMB Circular No. A–87, Attachment A, Par. C.1.a. and C.2.a. The draft GAL addresses three types of reductions in real property utilization which may occur during or after amortization of the property.

(a) If the amount of space utilized for a program (e.g., ES) declines during the amortization of the property and a corresponding increase in the amount of space utilized for another program (e.g., UI), there must be a proportionate reduction in the declining program's previously established share of the amortization charges and a corresponding increase in charges to the increasing program(s) charges. The increased amortization by the gaining program(s) is a further acquisition, subject to OMB Circular A-87 where applicable.

(b) A significant and permanent reduction in UI and/or ES utilization of space in real property after the amortization is completed constitutes a reduction in need for the property and is subject to 29 CFR 97.31(c) disposition requirements to the extent of that reduction (see par. 6 below). Thus, if a State starts using property acquired with UI funds for any non-UI purpose, including ES, it must request DOL disposition instructions that reflect its reduced UI needs.

(c) If the property for which there is a reduced UI or ES need was wholly or partly acquired or amortized with combined UI-ES grants (AS&T funds) which cannot be separately identified between the UI and ES programs without disproportionate effort, the State may use an equivalent proportion of the property for UI or ES purposes interchangeably (see par. 8. for additional information on property acquired with AS&T funds).

7. Disposition Instructions

The draft GAL discusses at length two issues relating to DOL disposition instructions which 29 CFR 97.31(c) does not fully cover. These issues are: Partial dispositions, i.e., significant and permanent, but less than 100 percent, reductions in the utilization of real property acquired with grant funds (see par. 5. above); and what matters may be covered by disposition instructions besides the options specified in the regulation itself.

Reductions in UI or ES utilization regularly occur in real property acquired with employment security grant funds due to changes in program needs. The Department of Labor believes that when such reductions are significant and permanent, the property or properties must be treated subject to 29 CFR 97.31(c). The draft GAL takes a position on significantly reduced UI or ES use of real property that failure to comply with the requirement to request disposition instructions within a reasonable time after real property ceases to be used for program purposes is a compliance issue and could result in the establishment of a debt and/or the pursuance of other actions as appropriate.

29 CFR 97.31(c) does not specifically state what details may be included in disposition instructions, aside from general directions to retain, sell, or replace the property or convey it to the Federal Government. Quite often, DOL has the predominant, if not the only, financial equity interest in SESA real property. DOL believes the regulation should be construed to provide DOL agencies with broad discretion to take whatever action is necessary and appropriate to safeguard DOL's financial interest in property acquired with grant funds. Consequently, the draft GAL provides that DOL disposition instructions may include directions on obtaining appraisals and sales procedures to be followed.

8. Replacement of Reed Act Property

Section 903(c)(2) of the Social Security Act (Reed Act) permits a State's Reed Act fund to be used for administrative expenditures pursuant to a specific appropriation of the State's legislature. Over time, DOL policies on the use of Reed Act funds for acquiring SESA real property have evolved. Foremost among them is that State Reed Act appropriation may not authorize obligations at any time in excess of the previously unused amounts credited to the State under Section 903 of the Social Security Act. Thus, appreciation realized from the sale of unamortized Reed Act property is not available for appropriation.

Another policy has allowed States to transfer Reed Act equity from a vacated property to replacement property without a State appropriation if certain conditions were met. This policy extended to both the unamortized portion of Reed Act funds used to acquire the vacated property and the Reed Act share of any appreciation in the value of the vacated property.

The interpretation continues to provide limited authority for the transfer of Reed Act equity to replacement property, because such action is allowable only if the replacement property could have been acquired under the appropriation for the vacated property and the conditions of section 903(c)(2) are met. The most significant limitation is that the purpose of the original appropriation must apply to the replacement property.

9. Other SESA Real Property Replacements

States receive separate UI and ES grants under the authority of different statutes. When property acquired with UI and ES funds is no longer used for authorized purposes, the DOL equity is attributable separately to the UI and ES grant program and is determined on the basis of the respective UI and ES contributions to the cost of the property. Prior to 1983, however, SESAs also received combined UI-ES funds, also known as AS&T funds, for administrative costs which could be used interchangeably for ES and/or UI administrative purposes.

If real property acquired with combined UI-ES administrative funds is no longer needed for UI and ES purposes, DOL equity can be repaid without determining the respective UI and ES shares of DOL equity. However,

if DOL equity in such property is used to obtain replacement property, the draft GAL requires the State first to determine how such equity resulting from combined UI-ES funds should be apportioned among the UI and ES programs and then shall, consistent with DOL disposition instructions, transfer the adjusted UI and ES equity shares in the vacated property to the replacement property.

10. Total Spending Limitation

OMB Circular No. A–87 limits the allowable "total cost of space" to "the rental cost of comparable space and facilities in a privately-owned building in the same locality" (OMB Circular No. A–87, Attachment B, Par. C.2.). DOL interprets this provision to include rental costs and charges under capital leases as well as charges for cash purchases of real property to be used for space purposes. Cash purchases are also covered by OMB Circular No. A–87's capital expenditure provision (Attachment B, Par. C.3.). Since the amount of each State's UI and ES grant is limited, an all cash purchase of a building or other major capital asset would significantly reduce UI and ES grant funds available for current operating expenses. Therefore, the draft GAL takes the position that ETA will only approve cash purchases of real property that satisfy the OMB Circular No. A–87 "total cost of space" standard.

11. Amortization, Depreciation, Rents, and Equity

There has been some confusion about what charges to UI and ES grants are allowable or appropriate under various types of occupancy arrangements. There has also been confusion concerning the circumstances under which Federal equity is created.

For example, the OIG review found instances of rental-purchase and other capital lease arrangements treated like operating leases and amortization of an original fund source treated like accelerated depreciation. OMB Circular No. A–87's capital expenditure provision (Attachment B, Par. C.3.) relates Federal equity in an asset to the use of grant funds to pay for the cost of the asset. One of the objectives of the draft GAL is to eliminate the confusion between charges for the cost of real property and charges for using such property. The former includes cash purchases, certain capital leases, and arrangements for amortizing Reed Act and/or other funds used to acquire real property; the latter includes depreciation or use allowances (authorized by OMB Circular A–87, Attachment B, Section B.11), operating leases and charges under rental-rate or equivalent systems (authorized by OMB Circular No. A–87, Attachment B, Section C.2.a).

Federal equity is not created when actual costs as described in OMB Circular A–87, Attachment B, C.2.a. are charged. Here, depreciation based on the useful life of the building (or amortization not to exceed allowable depreciation), interest, and other allowable costs may be charged to the grant and no Federal equity will accrue. If the principal portion of the original fund source is being repaid with grant funds under other than a rental-rate or equivalent system, then only that amount may be charged to the grant and Federal equity will be created. Neither depreciation, use allowance nor interest may be charged to the grant when a schedule to directly repay principal is used.

There has also been confusion between the OMB Circular No. A–87 equity requirement cited above and the assurances of rent-free SESA space occupancy which used to be required from the States as a condition of ETA approval of amortization arrangements. The draft GAL takes the position that ETA will no longer require assurances from the States of rent-free SESA occupancy to protect its equity interests in real property acquired with UI and/or ES grant funds; relying instead on the real property disposition procedures of 29 CFR 97.31(c).

12. Retention of Proceeds

SESAs are not always able to immediately use the proceeds from the disposition of real property to acquire replacement property. However, they may not indefinitely retain these proceeds pending their use for replacement property. The draft GAL clarifies past ETA policy as to what constitutes a reasonable retention period for proceeds attributed to DOL equity, by limiting that period to the Federal fiscal year in which disposition occurs, unless DOL's disposition instructions include approval of a grantee-proposed real property replacement plan with a longer retention period. Proceeds related to Reed Act funds are subject to the immediate deposit requirement (section 303(a)(4) of the Social Security Act and section 3304(a)(3) of the Internal Revenue Code of 1986) and may not be retained outside the Unemployment Trust Fund. Failure to immediately deposit such proceeds may result in the assessment of interest on the outstanding amount.

The draft GAL is printed below. The final GAL will be published in the **Federal Register.**

Signed at Washington, DC, on November 9, 1992.

Robert T. Jones,

Assistant Secretary of Labor.

Directive: General Administration Letter No.
To: All State Employment Security Agencies
From: Donald J. Kulick, Administrator for Regional Management
Subject: Acquisition, Use, and Disposition of SESA Real Property

1. *Purpose.* To provide policy guidance, interpretations of existing regulations and other requirements applicable to the acquisition, use, and disposition of real property acquired or amortized with funds provided under section 903 of the Social Security Act (Reed Act), title III of the Social Security Act, or the Wagner-Peyser Act.

2. *Table of Contents.*

3. *References.* Sections 302(a) and 903(c)(2) (Reed Act) of the Social Security Act, 42 U.S.C. 502(a) and 1103(c)(2); 29 U.S.C. 49 *et. seq.*; section 303(a)(4), 42 U.S.C. 503(a)(4); section 3304 (a)(3), 26 U.S.C. 3304(a)(3); 20 CFR part 652; 29 CFR part 97; 41 CFR part 29–70; Sections 3001–3040, Part IV, ES Manual; OMB Circular No. A–87 (46 FR 9548–9554, January 28, 1981); Unemployment Insurance (UI) Program and Budget Plan (PBP) for FYs 1989, 1990, 1991, and 1992; UIPL 12–91 (56 FR 29719–29723) and FM 108–86.

4. *Definitions.*

a. *UI and ES Grant Funds.* Grant funds provided to States under title III of the Social Security Act for administration of State unemployment insurance (UI) programs and the Wagner-Peyser Act for administration of State employment service (ES) programs. (Note: The ES Manual refers to UI and ES grant funds as granted funds. The UI and ES programs are collectively known as the employment security program.)

b. *AS&T funds.* Funds provided in a single award prior to 1983 under the authority of both acts for the use of both the UI and ES programs which cannot be specifically identified with either program, without disproportionate effort, are hereinafter referred to as AS&T funds.

c. *Contributions/Participation.* Contributions to or participation in the acquisition cost of real property by a grant, Reed Act funds, or other source is the amount provided by each source to acquire or make capital improvements to real property. Each such contribution or participation is deemed to be a share (see 29 CFR 97.3 for definition) and is expressed as a percentage of the acquisition cost of the property and/or its improvement(s).

d. *Adjusted Contributions.* Contributions as defined in paragraph 4.c. above plus (or minus) amounts provided by (or paid to) other sources of funds, by amortization or otherwise, to pay off or replace such contributions (see 7.b.(5)).

e. *Equity or Share.* The terms equity, DOL equity, Reed Act equity, share, DOL share and Reed Act share are used with the following meanings throughout this General Administration Letter (GAL):

(i) *Equity* means the net value of an interest in property (value after all obligations are paid off);

(ii) *Share* means the contribution to the acquisition cost attributed to each source of funds, expressed as a percentage;

(iii) *DOL equity* means the right of the U.S. Department of Labor (DOL), as the grantor agency, to a share of the fair market value of State-owned real property when it ceases to be used for UI and/or ES purposes. The value of DOL's equity interest is based on the adjusted contributions of UI and ES grant funds, including AS&T funds, to the acquisition cost of the property and any capital improvements that materially increase the value or useful life of real property (see 7.b.(5)). This definition is consistent with the meaning of equity in OMB Circular No. A–87 and is the basis for the Federal compensation formula in 29 CFR 97.31(c). In certain situations involving capital improvements, the DOL equity and share may be adjusted based on the fair market value of the property at the time the capital improvement is made (see 7.b.(8)); and

(iv) *Reed Act equity* means the equity attributable to the State's unemployment fund's share of the fair market value of real property when it is no longer to be used for employment security purposes. Such equity is based on the adjusted contributions of Reed Act funds (see 7.b.(5)) to the acquisition cost of the property and any capital improvements.

f. *Proceeds.* The net dollar value received or due from the disposition of real property, as provided in 29 CFR 97.3(c) (1) and (2). Since 29 CFR 97.31(c) uses proceeds to refer to both cash and non-cash proceeds, proceeds, for purposes of this GAL, means the net dollar value of all cash and non-cash proceeds. Cash proceeds, for purposes of this GAL, means the net proceeds expressed in dollars, as provided in 29 CFR 97.31(c)(2).

5. *Background.* In 1986, the Employment and Training Administration (ETA) issued FM 108–86 to provide guidance to ETA Regional Offices on the acquisition, use, and disposition of State Employment Security Agency (SESA) real property, with emphasis on the use and amortization of Reed Act funds.[1] The Regional Offices were asked to furnish information copies of the FM to the SESAs. FM 108–86 did not establish new requirements; but rather, restated existing requirements contained in statutes, the ES Manual, 41 CFR part 29–70 and OMB Circular A–87, as well as agency policies that evolved over time.

At the time the FM was issued, ETA prior approval was required for the use of UI grant funds to acquire real property, but not for the use of Wagner-Peyser (ES) funds for this purpose. Prior approval authority with regard to ES funds was delegated to the States in 20 CFR 652.8 (48 FR 50665, Nov. 2, 1983). ETA delegated its prior approval authority for the use of UI grant funds to acquire equipment and other capital expenditures to the State Administrators in the FY 1989 Program and Budget Plan (PBP) (ET Handbook 336, 5th Edition, Par. VI.C.2.d.). The same delegation appeared in the FY 1990 PBP (ET Handbook 336, 6th Edition, Par. VI.C.2.d.). The delegation in the FY 1991 and FY 1992 PBPs (ET Handbook 336, 7th and 8th Editions, Par. VI.C.2.d.) covers only equipment acquisitions.

In 1988, DOL and 23 other Federal agencies adopted the 'common rule' (53 FR 8034–8103) containing uniform administrative requirements for State, local, and Indian tribal government grantees. For DOL grant programs, the 'common rule' is codified at 29 CFR part 97. These regulations superseded 41 CFR part 29–70. Assurances were included in the FY 1989 ES Reimbursable Grant agreement and the FY 1990 and FY 1991 UI PBPs under which SESAs agreed to apply 29 CFR part 97 to real property acquired prior to the effective date of part 97. The adoption of 29 CFR part 97 and the PBP changes have rendered FM 108–86 as well as previous delegations of prior approval obsolete.

In 1989, DOL's Office of Inspector General (OIG) reviewed DOL equity in SESA real property. OIG found instances of inadequate State property records and instances where States had reduced or terminated employment security use of real property without compensating (i) DOL for its equity where the property had been acquired or amortized with UI and/or ES grant funds, or (ii) the State's unemployment fund for the Reed Act equity where the property had an unamortized balance of Reed Act funds.

This GAL updates previous ETA policies and guidance on the subject of real property acquired by States using UI and ES grant funds. Since the use of Reed Act funds to acquire real property is an integral part of the subject, Reed Act requirements are also dealt with at length. An appendix at the end of the GAL provides four illustrations showing how to calculate DOL, Reed Act, and other equity in real property being disposed of or replaced by other property, or where there is a significant reduction in UI (or ES) use.

6. *Applicable Requirements.* The acquisition, use, disposition, and amortization of real property acquired with UI and/or ES grant funds are subject to:

(i) DOL regulations at 29 CFR part 97, which contain administrative requirements applicable to grants to State governments;

(ii) OMB Circular No. A–87, which contains uniform Federal allowable cost standards applicable to grants to State governments; and

(iii) this GAL, which contains interpretations of these requirements.

The preceding requirements provide that if real property is acquired or amortized with UI and/or ES grant funds, the State must comply with the real property and procurement regulations at 29 CFR 97.31 and 97.36, respectively.

The acquisition, use, and amortization of real property acquired with Reed Act funds are subject to section 903(c)(2) of the Social Security Act and sections 3001–3040, Part IV, ES Manual and not subject to 29 CFR part 97.

[1] See Sec. 7.a.(1) for additional information on the use of Reed Act funds.

Dispositions of real property acquired with Reed Act funds shall be conducted in accordance with this GAL.

Where both Reed Act funds have been used to acquire real property and UI and/or ES grant funds have been used to acquire or amortize real property, the appropriate set of requirements are applicable to the adjusted contributions of each fund source.

Regardless of the sources of funds used to acquire real property, States are expected to exercise good business judgment in discharging their procurement and property management responsibilities. DOL continues to encourage the States to upgrade facilities occupied by SESAs in order to better serve the public. When real property is no longer suitable for employment security purposes, it should be sold, refurbished or exchanged for space of suitable size and quality.

7. *Acquisition of SESA Real Property.*

a. *Reed Act Funds.*

(1) *General.* Reed Act funds are funds transferred to the accounts of the States in the Unemployment Trust Fund (UTF) pursuant to section 903 of the Social Security Act. Under section 903(c)(2) of the Act, a State legislature may appropriate Reed Act funds in the State's UTF account for UI and ES administration expenses. This includes the cost of acquiring real property for employment security purposes (Sec. 3020, Pt. IV, ES Manual). When used in conjunction with the amortization arrangements described in paragraph 7.b.(5) below, Reed Act funds act as revolving funds that may be used for the acquisition of SESA real property.

(2) *Appropriation.* Reed Act funds used to acquire real property must be appropriated by the State's legislature. The State appropriation act must satisfy the requirements of section 903(c)(2) of the Social Security Act, Sections 3001–3040, Part IV, ES Manual, and UIPL 12–91, which supersedes parts of the ES Manual and contains current recommended draft language for Reed Act appropriations. The designation 'Reed Act funds' refers to funds transferred to the State pursuant to Section 903(a) including previously amortized Reed Act funds, and amounts restored to Reed Act status, pursuant to paragraph (c)(3) of section 903. Other funds in a State's UTF account, are not available for appropriation. No ETA approval is needed for the appropriation and use of Reed Act funds. Also see sections 9.d.(1) (replacement of Reed Act real property) and 9.(1).

b. *UI and ES Grant Funds.*

(1) *Total Spending Limitation.* Under the space costs provision of OMB Circular No. A–87 (Attachment B, Par. C.2.), the total amount that may be charged to UI or ES grant funds for occupying a publicly- or privately-owned building during any period may not exceed the rental cost of comparable space and facilities in a privately-owned building in the same locality. This limitation applies to any one or combination of the following:

(a) *Maintenance and operation costs.* Costs of maintenance and operations not otherwise included in rental or other charges for space and allowable under OMB Circular A–87, Attachment B, Par. C.2.b.

(b) *Rearrangements and alterations.* Costs of rearrangements and alterations required specifically for UI and/or ES purposes or which materially increase the value or useful life of property;

(c) *Rental-rate systems.* Costs of space newly occupied in publicly-owned buildings on or after October 1, 1980, under rental rate or equivalent systems (see (3) below);

(d) *Cash purchase.* Payments for the cash purchase of real property exclusive of interest (capital expenditure provision of OMB Circular No. A–87 (Attachment B, Par. C.3.));

(e) *Reed Act amortization.* Repayments (amortization) of Reed Act funds used to acquire real property as authorized under 20 CFR 652.8(d)(7) and the PBP (1992 PBP, Par. VI.C.2.c.) (see (5) below);

(f) *Amortization of other funds.* Repayments of other non-Federal funds, exclusive of interest, used to acquire real property, such as the amortization of the principal portion of State bonds or of other funds borrowed from public or private sources;[2]

(g) *Lease-purchase.* Allowable costs under lease-purchase, lease with option to purchase, or other commercial capital lease arrangements which create a material equity in real property; [3] and

(h) *Depreciaton or use allowance.* Depreciation or use allowance for space occupied in publicly-owned buildings (see (6) below). [4]

(2) *Allocation of Charges Between UI and ES.* The amount of UI and ES grant funds used in any fiscal year for the acquisition or amortization of a particular unit of real property shall be proportionate to the use of the property by the UI and ES programs, respectively.

Changes in the proportion of UI and/or ES use from one period to the next shall be reflected in the allocation of space charges. Where individuals work on more than one program, the related space charges shall be allocated to the benefitting programs in proportion to use. For example, personnel activity distributions, such as those produced by the FARS time distribution subsystem, may be used as the basis for allocation.

(3) *Rental-rate or Equivalent Systems.* Rental-rate or equivalent systems referred to in Sec. C.2.a., Attachment B of OMB Circular No. A–87 are mechanisms for allocating actual, allowable occupancy costs of publicly-owned real property acquired after October 1, 1980, among the occupants. Allowable costs include operation and maintenance costs, interest, and depreciation based on the useful life of the buildings and/or other improvements.

It is DOL's position that an equivalent system may include principal amortization instead of depreciation provided the amount charged to UI or ES grants under such a system does not exceed the annual costs that would have been charged to a grant under a rental rate system as defined in Attachment B, Section C.2.a., of OMB Circular A–87. Rental rate or equivalent systems are also subject to the total spending limitation in OMB Circular A–87 (Attachment B, Par. C.2.) (See (1)(c) above.) No DOL equity accrues from rental payments made under such rental-rate or equivalent systems.

The above stated position may be viewed as a change from the previous DOL position on this subject. This change may be considered in financing arrangements after the effective day of this GAL and is not intended to be applied retroactively to previously approved funding arrangements.

(4) *Acquisitions by Cash Purchase.* Because of the total expenditure limitation in (1), States will normally be unable to use UI and ES granted funds for cash purchases of land and buildings.

(5) *Amortization.* States may acquire real property with Reed Act or other non-Federal funds under arrangements in which the original fund source(s) used to purchase the property is(are) amortized (or repaid) with UI and/or ES grant funds. A Reed Act amortization arrangement is a repayment arrangement in which a SESA, instead of paying bondholders or other creditors, makes periodic payments of UI and/or ES grant funds to the State's account in the Unemployment Trust Fund (UTF). Interest costs incurred under real property amortization arrangements are unallowable except under certain rental rate or equivalent systems (see (3) above).

UI and ES granted funds may not be used to amortize real property whose costs are charged to grant programs under an OMB Circular No. A–87 rental-rate system (see (3) above).

Amortization payments shall be reflected on the State's books as adjustments to the original contributions to the cost of the property. Each payment reduces the book balance of contributions by Reed Act or other non-Federal funds and correspondingly increases contributions by UI and ES grant funds; thereby creating DOL's share of equity.

Use of UI and/or ES grant funds to amortize Reed Act or other fund source(s) to acquire the real property creates a Federal share or equity in the property except under rental-rate or equivalent systems (see (3) above). Since the costs charged to each grant program creates a DOL share attributable to that program's funds, the DOL share must be accounted for separately for each program.

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[2] Except as provided in paragraph (2), interest and other financial costs are unallowable costs (Par. D.7., Attachment B, OMB Circular A–87).

[3] See footnote 2.

[4] Allowable depreciation and use allowance costs are described at length in Sec. 11 of OMB Circular A–87, Attachment B.

In the amortization of Reed Act funds with Federal grant funds, equity in real property shifts from Reed Act to UI and ES grant funds. Once a Reed Act-funded property is completely amortized, Reed Act equity in the property no longer exists; but rather, equity belonging to the Federal grantor agency has been created.

(6) *Depreciation.* Depreciation (and use allowances) should not be confused with amortization. Amortization, for purposes of this GAL, is the scheduled repayment of a debt or original fund source used in the acquisition of real property. Depreciation and use charges represent the consumption of an asset over time. Depreciation or use allowance may not be charged to UI and/or ES grant funds for real property which is being or has been amortized with Federal funds. If depreciation costs of property not acquired with Federally granted funds are to be charged to UI and/or ES grant funds, the computation must reflect the expected useful life of the building(s) and the property's acquisition cost.

Depreciation costs charged to UI and/or ES grants based on an amortization schedule for repayment of either a debt, Reed Act or other fund source used to acquire or improve real property, or based on IRS guidelines are not allowable (see OMB Circular A–87).

No DOL equity accrues from the use of UI and/or ES grant funds for depreciation costs.

(7) *Prior Approval Requirements.* DOL's regulations at 20 CFR 652.8(d)(2), issued in 1983, delegated all DOL prior approval authority under OMB Circular No. A–87 and 41 CFR part 29–70 for Wagner-Peyser grants to the States. A similar but narrower delegation of authority, covering equipment and other capital expenditures, was made to the States for UI activities in the FY 1989 and FY 1990 UI Program and Budget Plan (PBP).

Both the 1989 and 1990 UI PBP and Wagner-Peyser regulations authorized the use of UI and ES grant funds for Reed Act amortization but did not require prior DOL approval of such expenditures. These provisions only applied to Federal actions designated as prior approvals and not to Federal actions designated as disposition instructions.

On October 1, 1988, 41 CFR part 29–70 was replaced by the 'common rule' (codified for DOL at 29 CFR part 97) for grants to governmental entities. As specified at 29 CFR 97.5, the 'common rule' superseded existing regulations and other issuances that were inconsistent with its provisions. As a result, the 1983 delegation of prior approval authority for Wagner-Peyser activities was superseded as of October 1, 1988. An acquisition of real property after September 30, 1988, currently being amortized or to be amortized with Federally granted funds which did not receive the prior approval of DOL, should be brought to the attention of the appropriate DOL Regional Office for approval of continued amortization arrangement(s).

Requests for DOL prior approval for the use of UI and/or ES funds for the acquisition or amortization of real property shall be accompanied by an acknowledgement that there will be DOL equity in the property to the extent that UI and/or ES funds are used for its acquisition or amortization. If the need for the property for UI and/or ES purposes ceases or is significantly and permanently reduced, the State also acknowledges that it will request DOL disposition instructions in accordance with 29 CFR 97.31(c). The acknowledgement shall be signed by a State official(s) with the authority to legally commit the State with regard to the contents of the acknowledgement.

(8) *Capital Improvements.* For any capital improvement that materially increases the value or useful life of real property (whether paid by grant funds or otherwise) and that significantly alters the existing Federal share, DOL reserves the right to require the grantee to obtain one or more appraisals to determine the fair market value at the time of and as a result of the capital improvement. The fair market value as determined by appraisal(s) may be used to establish the revised shares. A significant alteration of the Federal share, for purposes of this GAL, is defined as any capital improvement where the cost of the improvement would either reduce the Federal share by 10% or more or estimated to affect the current Federal equity by $100,000 or more.

8. *Use of SESA Real Property.*

a. *Reduction in Utilization.* Reed Act funds and UI and ES granted funds may be used for office space to the extent that it is used for authorized program purposes (see Par. 7.b.(2)). Therefore, if a significant and permanent reduction occurs in UI utilization of space acquired with UI funds, the State must dispose of the excess space or replace it with property whose size is appropriate to the program's needs or take other appropriate corrective actions to bring DOL equity, attributable to UI grants, and UI occupancy into balance (see Par. 9.c., Disposition Instructions). The same is true for significantly and permanent reductions in ES used of space acquired with ES funds.

A SESA must request disposition instructions when the UI-funded share of the cost of real property significantly and permanently exceeds the UI share of the property's utilization, regardless of whether the SESA plans to use the excess space for ES or for non-employment security activities. The same is true for excess ES-funded space used for UI or for non-employment security purposes. Equity shares attributable to Reed Act or AS&T funds may be used for employment security purposes without regard to UI and ES distinctions. Therefore, a State is not required to request disposition instructions if the reduction in UI (or ES) use is offset by a corresponding increase in ES (or UI) use and the shift in use involves space which was either acquired with Reed Act funds which have not been amortized with UI or ES funds or acquired before 1988 with AS&T funds.

b. *Comparison with 41 CFR part 29–70:* Under 41 CFR 29–70.215–2(b) and the first paragraph of 41 CFR 29–70.215–2(c), DOL could permit SESA grant-funded real property to be used for non-employment security purposes without compensation. This option is not available under 29 CFR part 97. Therefore, all real property acquired with UI and/or ES grant funds, including property acquired before the effective date of 29 CFR part 97, should be used and disposed of in accordance with 97.31(b) and (c). Clauses to this effect have been inserted into the UI PBP and the ES Reimbursable Grant Agreements. SESAs should review the use of all grant-funded real property to determine what properties, if any, are not being used in accordance with 29 CFR part 97 and to request disposition instructions where appropriate.

c. *Income.* There are no limitations on the amount of rent that can be charged commercial tenants occupying excess SESA space. The State, however, must exhibit sound judgement in its decisions to rent to the commercial market. If the excess space is used by other Federally-supported programs, the costs the other Federally-supported programs may charge to their grants is limited to those allowed by the applicable cost principles. For example, if the space is used by the State in administering a grant that is subject to OMB Circular No. A–87, then Attachment B, Par. C.2.a. (Rental Cost) of that Circular is applicable. If the space is used for the JTPA program, the JTPA cost principles determined by the Governor pursuant to 20 CFR 629.37 are applicable.

Rental income must be allocated among the fund sources used to acquire the rented property in proportion with the original fund sources' adjusted participation in the property's acquisition cost. Rental income allocable to Reed Act funds must be immediately deposited in the State's UTF account. Rental income allocable to UI and/or ES grant funds shall be used as provided at 29 CFR 97.25(g)(2).

9. *Disposition of SESA Real Property.*

a. *Allocation of Proceeds.* When real property acquired or amortized with UI and/or ES granted funds ceases to be used for its respective program purposes, it must be sold, exchanged for replacement property, or otherwise disposed of as directed by DOL disposition instructions issued in accordance with 29 CFR 97.31(c). Under Section 97.31(c), each grant fund source's share of the proceeds from the sale or other disposition of the property is determined on the basis of its proportional participation in the cost of the property. Comparable treatment is accorded the Reed Act share of the proceeds (see Par. 7.b.(5) on adjusting contributions to cost).

If the real property includes a building that was constructed pursuant to an arrangement under which the land was provided without charge to grant funds, the fair market value of the contributed land at the time of contribution will be considered a contribution toward the total cost of the real property[5] for purposes of determining the

[5] 29 CFR 97.3 defines real property as "land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment".

respective shares in the property, unless there is clear written evidence of agreement between DOL and the State that the land is not intended to be included in any settlement of equities at such time as the real property ceases to be used for applicable grant purposes.

b. *Equity.* DOL equity in State-owned real property is created through the use of Federal grant funds to acquire real property or under DOL-approved amortization arrangements. OMB Circular No. A–87 requires grantees (States) to reimburse the Federal government for its equity interests when capital assets acquired with Federally granted funds cease to be used for the program(s) for which they were acquired. In DOL programs, such reimbursement is accomplished with the disposition procedures of 29 CFR 97.31(c).

Prior to the issuance of OMB Circular No. A–87 in 1968, DOL would approve an amortization arrangement only if the State assured that the SESA could occupy that space or space of equivalent quality and quantity "rent free" when amortization was completed, paying only for operation and maintenance costs. Since the Circular did not authorize continued use of the rent-free space requirement, DOL stopped using such an assurance and now relies exclusively on 29 CFR 97.31(c) to protect its equity interests in SESA real property.

c. *Disposition Instructions.*

(1) *General.* When SESA real property is no longer needed for the originally authorized purpose(s) and Federal grant funds have been used toward the acquisition costs of the property, the grantee must request disposition instructions from the DOL Regional Office in accordance with 29 CFR 97.13(c). This requirement includes situations where there is a significant and permanent reduction in UI or ES utilization of the property. The request for disposition instructions should be made as soon as it has been determined that a reduction of program use is expected. If a reduction has not been anticipated, the request for disposition instructions must be made within a reasonable time after the need for the property ends. The request should include factors and conditions which must be reflected in the DOL disposition instructions, such as planned leasing of the property pending its sale by the State. Since the 29 CFR 97.31(c) requirement only applies to property acquired with grant funds, disposition instructions are not required for Reed Act equity in SESA real property.

(2) *Options.* In response to a request for disposition instructions, the DOL Regional Office may direct the State to:

(a) Retain title to the property and compensate DOL for its equity, in accordance with 29 CFR 97.31(c)(1);

(b) replace the property with other property, using the proceeds from the disposition of the vacated property [6] as an offset to the cost of the replacement property, in accordance with 29 CFR 97.31(c)(1), with respective equities transferred to the replacement property;

(c) sell the property and compensate DOL for its equity in accordance with 29 CFR 97.31(c)(2); or

(d) transfer the property to DOL or its designee, in which case the State will be paid by DOL to compensate it for any State equity in the property in accordance with 29 CFR 97.31(c)(3).

(3) *DOL Action.* DOL, generally, will honor a State's request for any of the first three options in the previous section as long as DOL is adequately compensated for its equity. Non-compliance with the requirement to request disposition instructions when SESA real property ceases to be needed for UI or ES purposes will result in a disallowance, as provided in 29 CFR 97.43. DOL may issue a Finding and Determination, establish a debt, and/or pursue other actions as appropriate.

(4) *Appraisal and Other Instructions.* In addition to directing the grantee to use one of the 29 CFR 97.31(c) disposition options, DOL instructions may require certain other actions. As provided in 29 CFR 97.31(c)(2), if the property is to be sold, the State is required to use procedures that provide for competition to the extent practicable and which will result in the highest possible return. DOL will permit actual and reasonable selling and fix-up expenses to be deducted from the proceeds. If a method other than sale is to be used to dispose of the property, DOL will require the use of appropriate procedures to establish its current fair market value.

Accordingly, DOL disposition instructions may require the grantee to obtain one or more independent appraisals of the property, regardless of the disposition option requested by the State or chosen by DOL, and may also require independent appraisal of the fair market value of any contribution to the original acquisition cost of the property. DOL may also require the grantee to obtain DOL approval of the appraiser selected and/or the contract for appraisal. Alternatively, DOL may obtain its own appraisal of the property at DOL expense. Appraisal costs incurred by the grantee in connection with a disposition of property under 29 CFR 97.31(c) may be charged to current UI or ES grants as allowable costs or may be paid from the proceeds generated by the DOL approved transaction.

d. *Replacement.*

(1) *Reed Act.* Reed Act share in SESA real property is the ratio of the adjusted contribution of Reed Act funds to the original cost of the property to be disposed. In a replacement transaction, proceeds from the disposed property may be used as an offset to the purchase price of replacement property without another appropriation of Reed Act funds for the replacement property, provided that use of such funds conforms in all respects to the original appropriation of Reed Act funds authorizing the acquisition of the disposed property and is permissible under State law. In the interpretation of State Reed Act appropriations, the State is the final arbiter of their State law. Such transactions should not result in a new obligation of Reed Act funds.

(2) *UI and ES Grant Funds.* A State may use the proceeds from the disposition of SESA real property which was acquired or amortized with UI and/or ES grant funds as an offset to the purchase price of replacement property subject to the following:

(a) *DOL disposition instructions.* The replacement must be in accordance with DOL disposition instructions.[7] The grantee's request to DOL for disposition instructions should be accompanied by a plan for the disposition of the property to be replaced and the acquisition of the replacement property. The disposition-acquisition plan should cover the principal elements of the replacement, including location, projected cost, projected use by program of the replacement property, value of the equity transferred from the disposed property (by program), and a schedule for all significant events in the move to the replacement property. The plan may be amended at the discretion of the Department of Labor.

(b) *Utilization for UI or ES program purposes.* The replacement property must serve the same program(s) as the disposed property. Therefore, only the portion of the proceeds that are attributable to UI funding may be used for UI purposes in the replacement property; the same treatment must be accorded the ES portion of the proceeds. Proceeds attributable to pre-1983 AS&T funds may be used for either UI or ES purposes provided they are identified as either UI or ES equity in the replacement property at the time of replacement and thereafter accounted for as such.

(c) *Additional UI or ES cost.* The amount of current or future UI grant funds which may be used to acquire or amortize replacement real property may not exceed the DOL equity attributable to the UI portion of the cost of the replacement real property (see Par. 7.b.(2)) less the UI share of the proceeds from the disposed property, subject to the total spending limitation in 7.b.(1) above. The same treatment must be accorded costs charged to ES grant funds.

(d) *Location.* The replacement property must be in the same State as the property that has been disposed of but does not have to serve or be located in the same geographic locality if there are valid program-related reasons for the replacement action, such as an increased need for service in one area and a decreased need in another, or because the replacement will reduce the grantee's net space costs.

(e) *Retention period.* The proceeds resulting from the disposition of real property should be immediately used in the acquisition of the replacement property. However, DOL will permit retention of the proceeds in an interest-bearing escrow or other interest-bearing restricted account until the end of the Federal fiscal year in which disposition of the subject property occurred in order to allow

[6] Disposition proceeds may include cash received from the sale of property or the market value of property retained by the grantee but no longer used for authorized purposes.

[7] Since the "common rule" treats the replacement of real property acquired with grant funds as an aspect of disposition (see 29 CFR 97.31(c)(1)), replacements must be authorized by DOL disposition instructions.

the State to complete the actions involved in securing replacement property. Such interest-bearing accounts should yield interest equal to or greater than the rate required by 31 CFR part 205 (Cash Management Improvement Act (CMIA)). Interest earned on the proceeds must be used in the acquisition of the replacement property and included as DOL equity. (Note that proceeds of a Reed Act equity may not be handled in the same manner. See Par. 9.d.(1)).

If the State expects to need more time, it should be requested in the disposition-acquisition plan accompanying the request for disposition instructions along with the period of time that will be necessary to retain the proceeds (see 9.d.(2)(a)). In the event that circumstances prevent the replacement to be made within the approved time frame, the State may request an extension from DOL. (See 9.d.(2)(a)).

(f) *Proceeds; time of disposition.* Regardless of the type of transaction, DOL's equity in the proceeds is based on the property's fair market value, as determined by an arm's length sale or by an independent appraisal in accordance with 29 CFR 97.31(c), at the earlier of the date the property ceases to be used for UI or ES program purposes, the date cash is received for the property, or a date specified in DOL's disposition instructions.

(g) *Use of proceeds after replacement.* If the property being replaced is worth more than the replacement, the excess cash proceeds received or equivalent cash shall be handled in accordance with Par. 9.e.(2).

(h) *Amortization acceleration.* Proceeds from the disposition of SESA real property may not be used to accelerate the amortization of Reed Act or other fund source(s) used to acquire other real property.

(i) *Capital improvements.* Proceeds from the disposition of SESA real property may not be used to make capital improvements to existing properties unless such improvements create additional space to be used for employment security purposes, e.g., additions to buildings.

(j) *Property records.* The State's property record(s) for the replacement property shall reflect DOL equity transferred from the prior property as contributions to the cost of, and consequently equity in, the replacement property.

e. *Deposit and Subsequent Use of Cash Proceeds.*

(1) *Reed Act Funds.* The Reed Act share of cash proceeds received from the sale or other disposition of real property must immediately be deposited in the State's account in the Unemployment Trust Fund (section 303(a)(4) of the Social Security Act and section 3304(a)(3) of the Internal Revenue Code of 1986). In addition, any portion of the Reed Act share of the proceeds from a disposition action which is not used for replacement property, as provided in Par. 9.d., must be immediately deposited in the State's account in the Unemployment Trust Fund. As Par. 7.a.(2) states, however, only the adjusted contribution of Reed Act funds to the cost of the property may be credited as Reed Act funds. The remainder of the Reed Act share of the cash proceeds, if any, may not be credited as Reed Act funds and must be used solely for the payment of unemployment benefits. Failure to immediately deposit the applicable Reed Act proceeds into the Unemployment Trust Fund may be cause for the Secretary of Labor to commence conformity/compliance proceedings and to assess interest on the amount outstanding.

(2) *UI and ES Grant Funds.* The Total UI and ES shares (DOL equity) of the cash proceeds from the sale or other disposition of real property must be remitted to DOL or used to acquire replacement real property. A check payable to the United States in the amount of the DOL portion of the cash proceeds should be sent to the Regional office.

f. *Disposition of Real Property With Reed Act Equity and No UI or ES Grant Funds Equity.*

(1) *General.* Some States have chosen not to use UI or ES grant funds to amortize SESA real property acquired with Reed Act or other non-Federal funds and used for UI or ES purposes. There is no DOL equity in this property and it may be sold or otherwise disposed of without obtaining DOL approval or DOL disposition instructions.

(2) *Payment of Equity.* A diversion of real property from employment security purposes due to reductions in UI and/or ES use or for other reasons creates a liability to the State's unemployment compensation fund. The amount of the ability created would be equal to the diverted portion's share of the sale price or fair market value of the property as of the time employment security program use ends.

Cash proceeds from the sale or other disposition of the property must be immediately deposited in the State's account in the Unemployment Trust Fund, subject to the restrictions discussed above in paragraph 9.e.(1).

10. *Inquiries.* Address any questions on this GAL to the Regional Office.

Appendix

Example 1

Thirty years ago, $1 million of Reed Act funds and $1 million of other non-Federal funds were used to acquire real property for employment security activities in real property that cost $2 million. Seventy percent (70%) of the Reed Act funds were amortized with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of the amortization payments cannot be identified. The real property is being sold today for $6 million. The distribution of the respective equities would be based on the following calculations:

GAL Ref.			Percent
7b(5), 4c	*Cost Basis/Share of Each Fund Source in Vacated Building (Based on Adjusted Contributions to Cost)*		
	DOL Grants (allocable to AS&T Funds—70% × $1,000,000)	$700,000	35
	Reed Act ($1,000,000 less $700,000)	300,000	15
	Other funds ($2,000,000 less $1,000,000)	1,000,000	50
	Total cost	2,000,000	100
	Equity in Vacated Building by Fund Source		
	DOL equity (share allocable to UI and ES Grant Funds—35% × $6,000,000)	2,100,000	
	Reed Act equity (share allocable to Reed Act Funds—15% × $6,000,000)	900,000	
	Other Funds equity (50% × $6,000,000)	3,000,000	
	Total sale proceeds	6,000,000	
	Distribution of the Reed Act Share of Sale Proceeds		
	Reed Act contribution to acquisition cost of building	1,000,000	
7b(5)	Less: Adjusted UI and ES Grants contribution to (amortization of) acquisition cost	700,000	
	Adjusted Reed Act Contribution	300,000	
9a	Reed Act equity in sale proceeds	900,000	
	Less: Adjusted Reed Act contribution (credited Reed Act funds)	300,000	
93(1)	Balance of Reed Act Equity (must be used solely for unemployment benefits)	600,000	
9d(1)m 9e(1)	NOTE: In the example above, only the DOL equity ($2,100,000) would be available to finance a replacement building. The $900,000 of Reed Act equity must be deposited in the State's UTF account and is subject to the immediate deposit requirement. Of this amount, only the $300,000 of credited Reed Act funds may be used again for employment security administration, including real property, with the proper appropriation. The $600,000 balance produced in the last step may be used only for unemployment benefits, unless the criteria of Paragraph 9.d.(1) are met.		

Example 2

Twenty years ago, $1 million of Reed Act funds were used to acquire real property for employment security activities (100% of total cost of the property). The Reed Act funds were fully amortized with ES and UI grant funds. Fifty-five percent (55%) of the amortization was with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of those amortization payments cannot be identified. The remaining 45% was amortized 60% UI and 40% ES. The real property is being sold today for $6 million and the proceeds will be used for replacement property. The replacement property will cost $20 million and the planned occupancy is 30% UI, 20% ES, and 50% other program(s). The distribution of the respective equities would be based on the following calculations:

Ref.			Percent
7b(5), 4c	*Cost Basis of Each Fund Source in Vacated Property (Based on Adjusted Contributions to Cost)*		
	AS&T funds	$550,000	55
	UI funds (60% of 45%)	270,000	27
	ES funds (40% of 45%)	180,000	18
	Total cost	1,000,000	100
	Equity in Vacated Building by Fund Source		
	DOL equity allocable to AS&T (55% × $6,000,000)	$3,300,000	
	DOL equity allocable to UI (27% × $6,000,000)	1,620,000	
	DOL equity allocable to ES (18% × $6,000,000)	1,080,000	
	Total sale proceeds	6,000,000	
8a	*Transfer of Proceeds to Replacement Property by Fund Source*		
	Maximum DOL share/equity allocable to UI (30% of $20,000,000)	$6,000,000	30
	Maximum DOL share/equity allocable to ES (20% of $20,000,000)	4,000,000	20

In this example, both the $1,620,000 of DOL equity allocable to UI and the $1,080,000 of DOL equity allocable to ES may be transferred to the replacement property. In addition, the $3,300,000 of DOL equity allocable to AS&T may be transferred:

(1) to UI;

(2) $2,920,000 ($4,000,000 less $1,080,000) to ES and the remaining $380,000 to UI; or

(3) any other combination of UI and ES specified by the State.

After this initial transfer, the DOL equity allocable to AS&T loses its separate identity. The remaining $14 million of acquisition cost must be financed with other funds; however, four million dollars of additional acquisition cost of the replacement property may be amortized with a combination of UI and ES funds.

Example 3

Twenty years ago, $1 million of Reed Act funds were used to acquire real property for employment security activities (100% of total cost of the property). The Reed Act funds were fully amortized with ES and UI grant funds. Fifty-five percent (55%) of the amortization was with AS&T funds (pre-1983) and the specific program distribution (ES vs. UI) of those amortization payments cannot be identified. The remaining 45% was amortized 60% UI and 40% ES. A significant reduction in the need for employment security space in this property has occurred in the reduction appears permanent. The current occupancy is 30% UI, 20% ES, and 50% other program(s) and the current fair market value is $8 million.

The distribution of the respective equities would be based on the following calculations:

Ref.			Percent
7b(5), 4c	*Cost Basis of Each Fund Source in Property (Based on Adjusted Contributions to Cost)*		
	AS&T funds	$550,000	55
	UI funds (60% of 45%)	270,000	27
	ES funds (40% of 45%)	180,000	18
	Total cost	1,000,000	100
9a	*Share/Equity of Each Fund Source in Building Today—Before Utilization Adjustments*		
	DOL equity—AS&T funds	$3,300,000	55
	DOL equity—UI funds	1,620,000	27
	DOL equity—ES funds	1,080,000	18
	Total	6,000,000	10
8a	*Target Distribution of Share/Equity by Fund Source After Utilization Adjustments*		
	DOL equity—UI funds	$1,800,000	30
	DOL equity—ES funds	1,200,000	20
	Other funds	3,000,000	50
	Total	6,000,000	10

In this example, the significant and permanent reduction in the need for employment security space requires a long term plan to bring SESA equity and occupancy into balance. Some alternatives include the remission of $3,000,000 to the Department of Labor as a miscellaneous receipt or the acquisition of replacement property.

Example 4

Real property was acquired in 1984 for employment security purposes for $1 million using $400,000 and $600,000 from the proceeds of the sale of real property previously used for employment security purposes. The proceeds are attributable to ES and UI grants, respectively. In 1985, an addition to the property was constructed with $120,000 of Reed Act funds. In 1988, Penalty and Interest money was used to install a $70,000 air conditioning system. Finally, major roof repairs were done in 1990 using $50,000 of Penalty and Interest money. The current distribution of each fund's share would be based on the following calculations:

Ref.			Percent
	Current Share of Each Fund Source in Property		
9d(c)	ES (transferred in 1984) ($400,000 of $1,240,000)	$400,000	32.2
9d(c)	UI (transferred in 1984) ($600,000 of $1,240,000)	600,000	48.4
7a	Reed Act (1985 imp.) ($120,000 of $1,240,000)	120,000	9.7
	Penalty and interest (($70,000('88)+$50,000('90)) of $1,240,000)	120,000	9.7
	Total cost	1,240,000	100.0
7b(8)	NOTE: DOL reserves the right to have the fair market value of the property established as of the time the capital improvements are made and to establish revised shares based on current fair market value.		

[FR Doc. 92-27776 Filed 11-16-92; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by December 17, 1992.

ADDRESSES: Send comments to Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Roberta Dunn, National Endowment for the Arts, Congressional Liaison Office, room 525, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506; (202-682-5434).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently-approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 1992 Media Arts: Film/Radio Television Application Guidelines.

Frequency of Collection: One Time.

Respondents: Individual artists; state, regional or local arts agencies; non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from individual artists, non-profit organizations and state, regional or local arts agencies that apply for funding under the Medai Arts Program category guidelines.

Estimated Number of Respondents: 818.

Average Burden Hours Per Response: 39.5.

Total Estimated Burden: 32,370.

Roberta Dunn,

Congressional Liaison, National Endowment for the Arts.

[FR Doc. 92-27757 Filed 11-16-92; 8:45 am]
BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Playwrights Fellowships Section) to the National Council on the Arts will be held on December 8, 1992 from 9:30 a.m.-6:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.-10 a.m. and 6 p.m.-6:30 p.m. The topics will be opening remarks, policy discussion and guidelines review.

The remaining portion of this meeting from 10 a.m.-6 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5439.

Dated: November 9, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-27818 Filed 11-16-92; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

Dated: November 12, 1992.

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at

title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit application received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 12, 1992. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357-7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant:* Dr. Gary D. Miller, Biology Department, University of New Mexico, Albuquerque, NM 87131.

Activity for Which Permit Requested

Taking. The applicant requests a permit to band and release not more than 100 south Polar Skua chicks (Catharacta maccormicki) at Cape Bird, Ross Island, Antarctica. The banding will support an ongoing population study at the site, and will also help develop a set of known age birds for future studies. In addition, the applicant will record the band identification of adults tending the chicks.

Location

Cape Bird, Ross Island, Antarctica.

Dates

01/01/93-04/01/93.

Thomas F. Forhan,

Permit Office, Division of Polar Programs.

[FR Doc. 92-27798 Filed 11-16-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: December 4, 1992 (8:30 a.m. to 10 p.m.) and December 5, 1992 (8:30 a.m. to noon).

Place: Providence Marriott Hotel, Orms and Charles Streets, Providence, RI 02904.

Type of Meeting: Closed.

Contact Person: Deborah F. Lockhart, Program Director, Division of Mathematical Sciences, room 339, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-3453.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide recommendations for applications for the Mathematical Sciences Postdoctoral Research Fellowships.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 12, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-27797 Filed 11-16-92; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Effective Date of the Trade Agreement Between the United States of America and the Republic of Albania

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of the Effective Date of the Agreement on Trade Relations Between the Government of the United States of America and the Government of the Republic of Albania.

SUMMARY: In Proclamation 6445 of June 15, 1992 (57 FR 26921), the President proclaimed that the "Agreement on Trade Relations Between the United States of America and the Republic of Albania" would enter into force and nondiscriminatory treatment would be extended to products of the Republic of Albania in accordance with the terms of the Agreement on the date of exchange of written notices of acceptance in accordance with Article XVII of the Agreement. The exchange of written notices of acceptance in accordance with Article XVII of the Agreement took place in Tirana, Albania on November 2, 1992. Accordingly, the Agreement became effective on November 2, 1992, and nondiscriminatory treatment is extended to products of the Republic of Albania as of November 2, 1992 in accordance with the Agreement and as provided for in Proclamation 6445 of June 15, 1992.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 92-27895 Filed 11-13-92; 8:45 am]

BILLING CODE 3190-01-M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission Meeting

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public hearing and meeting.

SUMMARY: The Commission will hold a public hearing on Wednesday, December 9, 1992, and public meetings on Thursday and Friday, December 10 and 11, 1992, at the Embassy Suites Hotel, 1250 22nd Street NW., Washington, DC, (202) 857-3388, in the Consulate Meeting Room (lobby level). The hearing will begin at 8:30 a.m. and the meetings will begin at 9 a.m. Physician and beneficiary organizations will testify at the public hearing on issues to be covered in the Commission's 1993 Annual Report. Topics to be discussed at the public meetings include graduate medical education, access to care for Medicaid beneficiaries, the Medicare Current Beneficiary Survey, refinement of the volume performance standard policy, issues in updating the Medicare Fee Schedule, controlling cost and assuring quality under health care reform, implications of the Medicare Fee Schedule policies for other payers, payment to the anesthesia care team, an analysis of the Commission physician survey, a report on the Commission's November practice expense conference, and a briefing on HCFA's new regulations for the Medicare Fee Schedule.

ADDRESSES: The Commission is located at 2120 L Street, NW. in suite 510, Washington, DC. The telephone number is (202) 653-7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, (202) 653-7220.

SUPPLEMENTARY INFORMATION: A hearing schedule will be available November 23, 1992. Information about the exact agenda for the public meetings can be obtained on Friday, December 4, 1992. Copies of the agenda will be mailed at that time. Please direct all requests for the agenda to the Commission's receptionist.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 92-27852 Filed 11-16-92; 8:45 am]

BILLING CODE 6820-SE-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31423; File No. SR-CBOE-92-18]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to an Extension of the Eligibility Standards for OEX RAES

November 9, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On October 24, 1989, the Commission approved on a six-month pilot basis the current eligibility standards that individual market makers and groups of market makers must meet in order to participate on the Exchange's Retail Automatic Execution System ("RAES") for options on the Standard & Poor's 100 Index ("OEX").[1] Subsequently, the pilot was extended for two additional six-month periods, through April 22, 1991.[2] Although the Exchange has continued to apply and enforce the criteria as approved, the pilot approval was inadvertently allowed to lapse. The CBOE now proposes to extend the pilot program until April 22, 1994. The text of the proposal is available at the Office of the Secretary, CBOE and at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

On October 24, 1989, the Commission approved on a six-month pilot basis the current eligibility standards that individual market makers and groups of market makers must meet in order to participate on RAES for OEX options. Subsequently, the pilot was extended for two additional six-month periods, through April 22, 1991. Although the Exchange has continued to apply and enforce the criteria as approved, the pilot approval was inadvertently allowed to lapse.

The CBOE proposes to extend the pilot program until April 22, 1994. The Exchange is requesting the extension to insure the continued approval of a successful pilot program, which supports the automatic execution of public customer OEX orders, for a reasonable period of time and to reduce the amount of paperwork required to keep an effective pilot program in existence. Subsequent to the Commission's approval of this extension request, the CBOE intends to file a proposal to amend certain of the standards governing OEX RAES eligibility and to incorporate these standards into chapter XXIV of the Rules of the Exchange.

The pilot program restricts RAES OEX participation to market makers who are members of the OEX or Standard & Poor's 500 Index Option ("SPX") trading crowds by requiring that an eligible market maker execute 50% of its market maker contracts for the preceding quarter in OEX or SPX, and execute 25% of these trades in person. A member must meet these requirements before the member may participate in RAES individually or as a member of a group and the Index Floor Procedure Committee ("IFPC") may bar, restrict or condition a group account's participation in RAES if any member of the group fails to meet the RAES OEX/SPX market maker requirements.

The pilot program also modifies the eligibility requirements for group accounts operating on RAES and imposes additional obligations on group accounts by prohibiting the "purchasing" of RAES rights from an OEX or SPX market maker and by requiring that all OEX/RAES group participants be afforded a reasonable participation in the group's profits and losses. In addition, no member may participate directly or indirectly in more than one OEX/RAES group, and a group may be managed only by a member of the group. The program also specifies the maximum number of allowable participants in any one RAES group account and clarifies the authority of the IFPC to limit group sizes.

Once a group account has been logged onto RAES, all members of the group are required to remain on RAES until the next monthly expiration. Group participants may be relieved of their RAES obligations only with the approval of the IFPC. In addition, the IFPC may impose a sign off fee of $500.00 per member when a group account improperly signs off RAES.

The pilot program also provides the IFPC with the additional authority to ensure adequate RAES participation in OEX by allowing the IFPC to require market makers who are members of the OEX trading crowd to log on RAES if the IFPC believes there is inadequate RAES participation in OEX, absent reasonable justification or excuse for non-participation. If RAES participation continues to be inadequate, the IFPC may request participation of all market makers whether or not they are members of the OEX trading crowd.

The Exchange believes that the level of market maker participation in OEX RAES under the current eligibility criteria has been more than sufficient to support system integrity. The CBOE notes that from January 1991 through July 1992, the average OEX RAES participation levels, both for individuals and groups, have increased consistently.[3] In January 1991, the

[1] See Securities Exchange Act Release No. 27378 (October 24, 1989), 54 FR 46168 (order approving File No. SR-CBOE-87-22, Amendment No. 2).

[2] See Securities Exchange Act Release Nos. 27955 (April 27, 1990), 55 FR 18789 (order approving File No. SR-CBOE-90-07), and 28566 (October 23, 1990), 55 FR 43423 (order approving File No. SR-CBOE-90-28).

[3] See File No. SR-CBOE-92-18, Exhibit B.

average number of market makers participating in OEX RAES on a daily basis was 155. In July 1992, the daily average was 330. The July 1992 figures represent approximately 275 market makers participating in 27 active OEX RAES groups and 55 individual market makers.

The CBOE indicates that the percentage of firm customer volume executed through OEX RAES from 1987 through 1991 is as follows: (i) 1987, 25.5%; (ii) 1988, 25.5%; (iii) 1989, 26.2%; (iv) 1990, 23.5%; (v) 1991, 25.0%. The year-to-date percentage for 1992 is 24.6%.

The CBOE states that it has encountered no significant problems in enforcing the OEX RAES market maker eligibility criteria. From January 1991 through July 1992, Exchange staff automatically terminated 46 market makers who no longer satisfied the eligibility requirements from participation in joint accounts. During the same time period, the OEX Floor Procedures Committee ("Committee") took action, either a letter of warning or a two-week or one-month suspension from participation in OEX RAES, against 46 individual market makers for failing to adhere to their obligations on expiration Fridays. In addition, the Committee has taken action against two members for terminating from a joint account after the first day into a new cycle. In four instances, the Committee has taken no action for failure to satisfy the eligibility requirements because of mitigating circumstances. For example, one member was granted an exemption from the in-person requirement due to a medical condition.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and the national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[4] In particular, the Commission finds that the extension of the pilot is consistent with section 6(b)(5) of the Act because the pilot program's eligibility standards are designed to strengthen the integrity of the RAES system for OEX options, thereby contributing to the maintenance of fair and orderly markets and the protection of investors. The presence of an adequate number of market makers helps the Exchange to maintain the continued availability of RAES for OEX and thus contributes to the effective and efficient execution of public investor orders at the best available prices. In this regard, the Commission notes that average daily market maker participation levels in OEX RAES has increased from January 1991 through July 1992.[5] Although some market makers no longer participate in OEX RAES because they do not meet the eligibility requirements, the Commission believes that the level of market maker participation an OEX RAES since the adoption of the pilot program has been sufficient. In addition, the Commission believes that the actions of the Exchange to enforce the new eligibility standards have strengthened the integrity of OEX RAES without jeopardizing its continued availability.[6]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the pilot program to continue uninterrupted. In addition, because there have been no adverse comments concerning the pilot program since its implementation and because of the importance of maintaining the quality and efficiency of the CBOE's OEX market, the Commission believes good cause exists to approve the extension of the pilot program on an accelerated basis.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 8, 1992.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR-CBOE-92-18) extending the OEX RAES eligibility standards until April 22, 1994, is approved.

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[4] 15 U.S.C. 78f(6)(5) (1982).

[5] Specifically, the average number of market makers signed on OEX RAES for the months January 1991 to December 1991 was 155, 185, 200, 200, 245, 245, 250, 265, 255, 285, 285, and 265, respectively. The OEX RAES market maker participation figures for the months January 1992 to July 1992 were 255, 270, 285, 285, 325, 340, and 330, respectively. From January 1990 to September 1990, the average number of market makers signed on RAES for each month ranged between 109 and 183 market makers. See Securities Exchange Act Release No. 28566, *supra* note 2.

[6] The Commission notes that the CBOE also has requested retroactive approval of the pilot program to April 23, 1991. As a matter of policy, the Commission does not grant approval orders retroactively. This order only approves an extension of the pilot program prospectively until April 22, 1994.

[7] Before approving the pilot program on a permanent basis or a further extension of the program, the Commission expects the CBOE to submit to the Commission a complete review of the pilot program, including low and average monthly OEX RAES participation levels and an analysis of the adequacy of these levels, compliance with eligibility standards, and any action taken for non-compliance, as well as any complaints received or disciplinary actions taken as a result of the program.

[8] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27762 Filed 11-16-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31424; File No. SR-PSE-92-30]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Implementation of a new FOCUS Reporting Filing Fee

November 9, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On September 2, 1992, the PSE submitted to the Commission amendment No. 1 to the proposal.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to implement a new FOCUS Report filing fee of $25 per filing.[2] This fee will cover the cost of administering the FOCUS Report filing process.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As a result of a periodic review and evaluation of its fees, the PSE has decided to amend its fees to provide for a $25 FOCUS filing fee. The Exchange believes that this is a reasonable charge designed to help cover the costs of administering the FOCUS Report filing process.

Additionally, the Exchange believes that this proposal is reasonable and consistent as a fee related to its ongoing regulatory responsibility. Further, this file is consistent with a fee previously established by the Chicago Board Options Exchange.[3]

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general, and section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade; to protect investors and the public interest; and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-92-30 and should be submitted by December 8, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27759 Filed 11-16-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31425; File No. SR-PSE-92-31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Modification of Registration Fees for Registered Representatives and Registered Options Principals

November 9, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 28, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[1] See letter from Kenneth J. Marcus, Director, Equity Surveillance/Compliance, PSE, to Betsy Prout, Market Regulation, SEC, dated August 26, 1992. Amendment No. 1 clarified certain language in the proposed rule change.

[2] "FOCUS Report" refers to the Financial and Operational Combined Uniform Single Report, a uniform report required of broker/dealers with regard to financial and operational matters.

[3] See Securities Exchange Act Release No. 29482 (July 24, 1991), 56 FR 36180 (July 31, 1991) (notice of filing and immediate effectiveness of File No. SR-CBOE-91-27).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange is submitting to the Commission a proposed rule change relating to the modification of registration fees for Registered Representatives and Registered Options Principals.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change fees paid by member organizations to maintain, apply for, and transfer Registered Representative ("RR") or Registered Options Principal ("ROP") registrations (RRs and ROPs are required to register with and be approved by the Exchange pursuant to PSE Rules 9.26 and 9.27). Such fees were established by the Exchange in 1991 with the submission of Rule Filing SR-PSE-91-37.[1] First, the annual $10.00 fee to maintain an RR or ROP registration will be reduced to $5.00. Second, the $10.00 fee per applicant for a new RR or ROP registration will be reduced to $5.00. And third, the $10.00 fee for transferring an RR or ROP registration will be reduced to $5.00. These fees offset the costs relating to the Exchange's market surveillance programs and routine Designated Examining Authority (DEA) activity.

2. Statutory Basis

The PSE believes that the proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) in particular in that the proposal provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-92-31 and should be submitted by December 8, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27760 Filed 11-16-92; 8:45 am]

BILLING CODE 8010-01-M

[1] See Securities Exchange Act Release No. 29954 (November 18, 1991), 56 FR 59315 (November 25, 1991) (notice of filing and immediate effectiveness of File No SR-PSE-91-37).

[Release No. 35-25671; International Series Release No. 486]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 9, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 3, 1992, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corp., et al. (70-8002)

Entergy Corp. ("Entergy"), 225 Baronne Street, New Orleans, LA 70112, a registered holding company; its wholly owned nonutility subsidiary companies, Entergy Enterprises, Inc. (formerly Electec, Inc.) ("Enterprises"), and Entergy Services, Inc. ("ESI"), both of 639 Loyola Avenue, New Orleans, LA 70113; and Entergy's wholly owned public-utility subsidiary companies, Arkansas Power & Light Co. ("AP&L"), 425 West Capitol Avenue, Little Rock, AR 72201, Louisiana Power & Light Co. ("LP&L"), and New Orleans Public Service Inc. ("NOPSI"), both located at

317 Baronne Street, New Orleans, LA 70122, Mississippi Power & Light Co. ("MP&L"), P.O. Box 1640, Jackson, MS 39215–1640, and Entergy Power, Inc. ("EPI"), 425 West Capital Avenue, Little Rock, AR 72201, (collectively, "Applicants"), have filed an amendment to their application-declaration under sections 3(b), 6(b), 7, 9(a), 10, 12(b), 13(b), 13(f), and 33 of the Act and rules 43, 45, 51, 83, 86–88, 90, 91, and 93-95 thereunder.

The Commission issued a notice of the filing of the application-declaration on June 5, 1992 (HCAR No. 25551; International Series Release No. 396) and issued a supplemental notice on August 14, 1992 (HCAR No. 25607; International Series Release No. 436) ("August Notice"). The City of New Orleans, the Arkansas Public Service Commission, and the Environmental Action Foundation and the Alliance for Affordable Entergy have requested a hearing. In addition, the Louisiana Public Service Commission filed a request to intervene and requested that it be kept informed of any hearing on this matter. The Mississippi Public Service Commission filed a notice of intervention supporting and adopting New Orleans' request for a hearing, and filed a letter expressing its additional concerns. The requests for hearing of the City of New Orleans and the Arkansas Public Service Commission, and the intervention of the Mississippi Public Service Commission were subsequently withdrawn "contingent upon the Securities and Exchange Commission's incorporation in its order approving the requested transactions of the conditions listed in the attached Settlement Agreement between Entergy and New Orleans, Arkansas and Mississippi." The Louisiana Public Service Commission also withdrew its intervention but is not a party to the settlement agreement. Because of the settlement agreement, Applicants have materially amended their application-declaration requiring the Commission to issue this supplemental notice.

In the August Notice, Enterprise sought:

Authority to provide consulting services to Costanera [an Argentine electric generating facility in which Entergy holds an option to acquire a 6.0% voting equity interest] with respect to management, technical, operating, environmental and fuel supply training services on a competitive fee basis, which Applicants represent will neither favor nor discriminate against affiliates of Costanera . . . [Enterprises] expects that on a annual basis the provision of such services may range up to a maximum of $1 million, with the average likely to be substantially less. Applicants request that any possible consulting arrangements between [Enterprises] and Costanera be exempt from section 13 and the rules promulgated thereunder.

[Enterprises] may obtain services from its associate companies, Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L"), New Orleans Public Service Inc. ("NOPSI"), EPI and Entergy Services, Inc. ("ESI") to carry out its consulting arrangements with Costanera. [Enterprises] will reimburse its associate companies at cost. [Enterprises] has been previously authorized to obtain services from AP&L, LP&L, MP&L, NOPSI and ESI (HCAR No. 23200, January 13, 1984).

The settlement agreement contemplates reimbursement at cost plus five percent for services provided by "regulated utilities" to "nonregulated businesses." The settlement agreement states, "the term 'regulated utility' shall include New Orleans Public Service, Inc., Louisiana Power and Light Company, Arkansas Power and Light Company, Mississippi Power and Light Company, Entergy Operations, Inc., System Fuels, Inc., System Energy Resources, Inc., and Entergy Services, Inc., and such other similar subsidiaries as Entergy shall create whose activities and operations are primarily related to the domestic sale of electric energy to retail or at wholesale to affiliates, or the provision of services or goods thereto." "Nonregulated businesses" are defined to include Enterprises and EPI. AP&L, LP&L, MP&L, NOPSI, and ESI seek an exemption order from the "at-cost" standard of section 13(b) authorizing them to provide services to Enterprises and/or EPI at cost plus five percent.

In the interim, Applicants request that the Commission's initial order in this proceeding authorize EPI to provide services to Enterprises in accordance with the "at-cost" standards of section 13(b), as previously noticed. Further, Applicants request that the Commission reserve jurisdiction over the provision of services by AP&L, LP&L, MP&L, NOPSI, and ESI to Enterprises and/or EPI at cost plus five percent. Entergy requests that the supplemental order authorizing the exemption from section 13(b) be retroactive to the date of the Commission's initial order.

Entergy Corp., et al. (70–8010)

Entergy Corp. ("Entergy"), 225 Baronne Street, New Orleans, LA 70112, a registered holding company, its wholly owned nonutility subsidiary companies, Entergy Enterprises, Inc. (formerly Electec, Inc.) ("Enterprises"), and Entergy Services, Inc. ("ESI"), both of 639 Loyola Avenue, New Orleans, LA 70113; and Entergy's wholly owned public-utility subsidiary companies, Arkansas Power & Light Co. ("AP&L"), 425 West Capitol Avenue, Little Rock, AR 72201, Louisiana Power & Light Co. ("LP&L"), and New Orleans Public Service Inc. ("NOPSI"), both located at 317 Baronne Street, New Orleans, LA 70122, Mississippi Power & Light Co. ("MP&L"), P.O. Box 1640, Jackson, MS 39215–1640, and Entergy Power, Inc. ("EPI"), 425 West Capital Avenue, Little Rock, AR 72201, (collectively, "Applicants"), have filed an amendment to their application-declaration under sections 3(b), 6(a), 7, 9(a), 10, 12(b), 13(b), 13(f), and 33 of the Act and rules 43, 45, 51, 83, 86–88, 90, 91 and 94 thereunder.

The Commission issued a notice of the filing of the application-declaration on July 10, 1992 (HCAR No. 25579; International Series Release No. 417) ("July Notice") and issued a supplemental notice on August 14, 1992 (HCAR No. 25607; International Series Release No. 436). The City of New Orleans, the Arkansas Public Service Commission, and the Environmental Action Foundation and the Alliance for Affordable Entergy have requested a hearing. The Mississippi Public Service Commission filed a notice of intervention supporting and adopting New Orleans' request for a hearing, and filed a letter expressing its additional concerns. The requests for hearing of the City of New Orleans and the Arkansas Public Service Commission, and the intervention of the Mississippi Public Service Commission were subsequently withdrawn "contingent upon the Securities and Exchange Commission's incorporation in its order approving the requested transactions listed in the attached Settlement Agreement between Entergy and New Orleans, Arkansas and Mississippi." Because of the settlement agreement, Applicants have materially amended their application-declaration requiring the Commission to issue this supplemental notice.

In the July Notice, Enterprises sought:

Authority to provide consulting services to [Edesur, an Argentine electric distribution company in which Entergy holds an option to acquire a 5.1% voting equity interest,] with respect to operation, maintenance, strategic planning, customer service, marketing, information systems and other matters. Any such services will be provided on a competitive basis that neither favors nor discriminates against affiliates of [Edesur]. [Enterprises] expects that on an annual basis the provision of such services may range up to a maximum of $1 million, with the average likely to be $750,000 annually * * *.

Applicants request that any consulting arrangement between [Enterprises] and [Edesur] be exempt from section 13 and the rules promulgated thereunder. [Enterprises] may obtain services from its associate companies, Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L"), New Orleans Public Service Inc. ("NOPSI"), EPI and Entergy Services, Inc. ("ESI") to carry out its advisory arrangements with [Edesur]. [Enterprises] will reimburse its associate companies at cost. [Enterprises] has been previously authorized to obtain services from AP&L, LP&L, MP&L, NOPSI and ESI (HCAR No. 23200, January 13, 1984).

The settlement agreement contemplates reimbursement at cost plus five percent for services provided by "regulated utilities" to "nonregulated businesses." The settlement agreement states, "the term 'regulated utility' shall include New Orleans Public Service, Inc., Louisiana Power and Light Company, Arkansas Power and Light Company, Mississippi Power and Light Company, Entergy Operations, Inc., System Fuels, Inc., System Energy Resources, Inc., and Entergy Services, Inc., and such other similar subsidiaries as Entergy shall create whose activities and operations are primarily related to the domestic sale of electric energy at retail or at wholesale to affiliates, or the provision of services or goods thereto." "Nonregulated businesses" are defined to include Enterprises and EPI. AP&L, LP&L, MP&L, NOPSI, and ESI seek an exemptive order from the "at-cost" standard of section 13(b) authorizing them to provide services to Enterprises and/or EPI at cost plus five percent.

In the interim, Applicants request that the Commission's initial order in this proceeding authorize EPI to provide services to Enterprises in accordance with the "at-cost" standards of section 13(b), as previously noticed. Further, Applicants request that the Commission reserve jurisdiction over the provision of services by AP&L, LP&L, MP&L, NOPSI, and ESI to Enterprises and/or EPI at cost plus five percent. Entergy requests that the supplemental order authorizing the proposed exemption from section 13(b) be retroactive to the date of the Commission's initial order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-27761 Filed 11-16-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1722]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea Working Group on Carriage of Dangerous Goods; Meeting

The Working Group on Carriage of Dangerous Goods of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on December 3, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 2d Street, SW., Washington, DC 20593-0001. The purpose of the meeting is to discuss the outcome of the 44th Session of the Subcommittee on the Carriage of Dangerous Goods (CDG) of the International Maritime Organization (IMO) which was held October 19-23, 1992, at the IMO Headquarters in London. In addition, initial plans and preparations for the 45th session (CDG 45) to be held in early 1994 will be addressed.

The agenda items of particular interest are:

a. Amendments to the International Maritime Dangerous Goods (IMDG) Code.

b. Amendments to the IMDG Code for harmonization with The United Nations Recommendations on the Transport of Dangerous Goods.

c. Amendments to section 13 of the General Introduction to the IMDG Code to cover transport in tanks of solid dangerous substances including molten substances in solidified form, and the transport of dangerous substances under heated conditions.

d. Implementation of the IMDG Code.

e. Development of criteria for the hermetic sealing of receptacles, packages and Intermediate Bulk Containers.

f. Development of new glossary and illustrations of packagings for Annex I to the IMDG Code.

g. Revision of Class 4.1, self-reactive substances.

h. Amendments to the Emergency Procedures for Ships Carrying Dangerous Goods (EmS) and the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods (MFAG).

i. Implementation of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended, and amendments to the IMDG Code to cover pollution aspects.

j. Establishment of criteria for immersion testing of packages containing marine pollutants for the purposes of Annex III of MARPOL 73/78.

k. Matters relating to SOLAS regulations II-2/53 and 54.

l. Ships' stores of a hazardous nature.

m. Transboundary movement of wastes by sea.

n. Relations with other organizations.

o. Reports on incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas.

p. Updating of Recommendations on the Safe Transport, Handling and Storage of Dangerous Substances in Port Areas.

q. Review of existing ships' safety standards.

r. Role of the human element in maritime casualties.

s. Use of radio beacons on containers and packages.

t. Criteria for inclusion of substances in the list annexed to the 1973 Protocol.

u. Open-top container ship stowage and segregation.

v. Planning for the 45th session of CDG.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: CDR K.J. Eldridge, U.S. Coast Guard (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001 or by calling (202) 267-1577.

Dated: November 12, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92-27825 Filed 11-16-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 93-1]

Illinois Interstate Route Numbering Application; Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The Federal Highway Administration has received an application from the Illinois Department of Transportation (DOT) to renumber Interstate routes 74, 80 and 280 in the Rock Island/Moline, IL, and Davenport/Bettendorf, IA, area. The Illinois DOT proposes that I-80 (from its intersection with I-280 and I-74 southeast of Moline, IL, to its intersection with I-280 northwest of Davenport, IA) be renumbered as I-74; that I-280 (from its intersection with I-80 southeast of

Moline, IL, is to its intersection with I–80 northwest of Davenport, IA) be renumbered as I–80; that I–74 (from its intersection, with I–280 south of Moline, IL, is to its intersection with I–80 north of Bettendorf, IA) be renumbered as I–174. The purpose of this notice is to request any information and comments that should be considered by the FHWA in arriving at a decision on the proposal by the Illinois DOT.

DATES: Comments must be received on or before February 1, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93–1, Federal Highway Administration, Office of the Chief Counsel, HCC–10, room 4232, 400 Seventh St., SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Lyle P. Renz, Division Administrator, (217) 492–4640, Federal Highway Administration, 3250 Executive Park Drive, Springfield, IL 62705 (Office hours are from 7:30 a.m. to 4:15 p.m., c.t., Monday through Friday, except legal Federal holidays); or Mr. Hubert A. Willard, Division Administrator, (515) 233–1664, Federal Highway Administration, 105 Sixth Street, P.O. Box 627, Ames, IA 50010 (Office hours are from 7:45 a.m. to 4:30 p.m., c.t., Monday through Friday, except legal Federal holidays); or Mr. Thomas R. Weeks, Chief, Planning Programs Branch, Office of Environment and Planning (202) 366–5002, Mr. L. Harold Aikens, Jr., Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Authority

Under 23 CFR part 450, subpart A, States are responsible for proposing to the Federal Highway Administration all official actions regarding the designation, modification, or revision of the Interstate System, including route numbers. The Federal Highway Administrator is responsible for approving/disapproving all proposed Interstate system actions.

Criteria and Procedures

The following criteria will be used by the FHWA to evaluate Interstate route numbering changes:

1. Safety impacts;
2. System impacts (i.e., relationship to other Interstate and principal arterial routes);
3. Physical condition of facilities (including current and proposed design);
4. Proposed improvements;
5. Economic impacts; and
6. Environmental impacts.

Advantages and disadvantages of the proposed Interstate route numbering changes based on these criteria will be considered prior to a decision.

The application from the Illinois DOT will be processed in accordance with the following procedures:

1. Establish a docket for public comments.
2. Inform States directly affected by the proposed action of the criteria and procedures that will be followed in evaluating an application for Interstate route numbering changes. Provide an opportunity for these States to provide supporting or dissenting information based on the six established criteria.
3. Request the views and policy position of the metropolitan planning organization if the proposed Interstate route numbering change is within the metropolitan planning boundary.
4. Appoint (by Executive Director) an FHWA multidisciplinary team to evaluate the proposal and provide recommendations.
5. Determine if additional data/information are needed or if a special study is required. Obtain information from appropriate sources.
6. Evaluate all material based on the established criteria.
7. Render final decision (by Federal Highway Administrator).
8. Advise applicant and other affected States and interested parties of the final decision.

Comments and information pertaining to the proposed Interstate route numbering changes should be sent to the docket established for this notice.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: November 10, 1992.

T. D. Larson,

Administrator.

[FR Doc. 92–27826 Filed 11–16–92; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

Merger of Approved Trustees

Notice is hereby given that effective June 19, 1992, Manufacturers Hanover Trust Company, New York, New York, merged with and into Chemical Bank, New York, New York, under the name of Chemical Bank as the surviving corporation in the merger.

Dated: November 10, 1992.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 92–27753 Filed 11–16–92; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. 92–63; Notice 1]

Receipt of Petition for Determination That Nonconforming 1990 Porsche 911C4 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1990 Porsche 911C4 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1990 Porsche 911C4 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATE: The closing date for comments on the petition is December 17, 1992.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306)

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle

safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that:

(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Landsdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to determine whether 1990 Porsche 911C4 passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1990 Porsche 911C4 that was manufactured for importation into and sale in the United States and certified by its manufacturer, F. Porsche A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it carefully compared the non-U.S. certified 1990 Porsche 911C4 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1990 Porsche 911C4, as originally manufactured conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1990 Porsche 911C4 is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109, *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*; 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assembles*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the 1990 Porsche 911C4 complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the 1990 Porsche 911C4 is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the seat belt symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108: *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of either a U.S.-model seat belt in the driver's position or a belt webbing-actuated microswitch in the driver's seat belt retractor to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer. The petitioner claims that the 1990 Porsche 911C4 is equipped with a passive restraint system consisting of an airbag and control unit that have identical part numbers to those found on the U.S. certified 1990 Porsche 911C4.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. to the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 17, 1992.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 10, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-27752 Filed 11-16-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following

proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by December 17, 1992.

Dated: November 5, 1992.

By direction of the Secretary:

B. Michael Berger,

Director, Records Management Service.

New Collection

1. National Survey of Veterans.
2. The proposed survey will be conducted to obtain information relevant to the planning and budgeting of VA programs and services for veterans, determine trends in the veteran population, and collect data for policy analysis.
3. Individuals or households.
4. 10,525 hours.
5. 60 minutes.
6. Annually.
7. 10,525 respondents.

[FR Doc. 92-27738 Filed 11-16-92; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 222
Tuesday, November 17, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, November 18, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: ANPR on Sleepwear.

The staff will brief the Commission on the Advance Notice of Proposed Rulemaking (ANPR) to amend the standards for flammability of children's sleepwater to exempt close fitting garments and garments intended for infants.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207.

Dated: November 12, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-27970 Filed 11-13-92; 2:07 pm]

BILLING CODE 6355-01-M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, November 19, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report.

The staff will brief the Commission on the status of various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, (301) 504-0800.

Dated: November 12, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92-27971 Filed 11-13-92; 2:07 pm]

BILLING CODE 6355-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 3-93

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: November 17, 1992, 2:00 p.m.

SUBJECT MATTER: Consideration of the Claim of Lucy Moore, *et al.* under the War Claims Act of 1948 as amended.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street NW., room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on November 13, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-28007 Filed 11-13-92; 3:08 pm]

BILLING CODE 4410-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:30 a.m., Friday, November 20, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Regulation (Interbank Liabilities) to implement provisions of the Federal Deposit Insurance Corporation Improvement Act regarding interbank liabilities. (Proposed earlier for public comment; Docket No. R-0769.)

2. Publication for comment of proposed amendments to Regulation B (Equal Credit Opportunity) regarding release of appraisal reports.

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 13, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-27924 Filed 11-13-92; 12:58 pm]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12:00 noon, Friday, November 20, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 13, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-27925 Filed 11-13-92; 12:58 pm]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 16, 23, 30, and December 7, 1992.

PLACE: COMMISSIONERS' CONFERENCE ROOM, 11555 ROCKVILLE PIKE, ROCKVILLE, MARYLAND.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 16

Friday, November 20

2:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule Amending 10 CFR Part 52 (Tentative)
(Contact: Michael Rafky, 301-504-1606)

Week of November 23—Tentative

Monday, November 23

9:30 a.m.
Briefing on Progress of Design Certification Review and Implementation (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)
2:00 p.m.
Briefing on Rulemaking Procedures for Design Certification Under Part 52 (Public Meeting)
(Contact: Geary Mizuno, 301-504-1639)

Tuesday, November 24

10:00 a.m.
Briefing by OGC on Regulatory Issues and Options for Decommissioning Proceedings (Public Meeting)
(Contact: Mitzi Young, 301-504-1523)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Week of November 30—Tentative

Tuesday, December 1

1:30 p.m.
Briefing by TMI-2 Advisory Panel (Public Meeting)
(Contact: Michael Masnik, 301-504-1191)
3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 7—Tentative

Monday, December 7

9:30 a.m.
Briefing on License Renewal Rulemaking Issues (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)
2:00 p.m.
Briefing on Key Policy Issues for Pre-Application Reviews (MHTGR, PIUS, PRISM, CANDU-3) (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)

Tuesday, December 8

9:30 a.m.
Briefing on License Renewal Regulatory Guidance Issues (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, December 11

1:30 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) ((Public Meeting)
(Contact: Raymond Fraley, 301-492-8049)

ADDITIONAL INFORMATION: Affirmation of "Final Amendments to 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" scheduled for November 13, *postponed.*

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: November 13, 1992.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 92-28006 Filed 11-13-92; 3:20 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 16, 1992.

An open meeting will be held on Thursday, November 19, 1992, at 10 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Thursday, November 19, 1992, at 10 a.m., will be:

Consideration of whether to adopt amendments to Form N-2, the registration form used by closed-end management investment companies under the Investment Company Act of 1940 and the Securities Act of 1933, and related rules. The amendments would shorten and simplify the prospectus provided to investors by adopting the two-part disclosure format used by mutual funds and update disclosure standards for closed-end investment companies, including companies electing to be regulated as business development companies. An amendment to Rule 8b-16 under the 1940 Act also would exempt closed-end funds from the requirements to update their 1940 Act registration statements annually, provided certain disclosures are made to fund shareholders annually. The Commission is also publishing staff guidelines for the preparation of Form N-2. For further information, please contact Courtney S. Thornton at (202) 272-2097.

At times, changes in Commission priorities require alteration in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Steve Luparello at (202) 272-2100.

Dated: November 12, 1992

Jonathan G. Katz,

Secretary

[FR Doc. 92-28048 Filed 11-13-92; 3:58 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 57, No. 222
Tuesday, November 17, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES93-7-000, et al.]

Kansas Gas and Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Correction

In notice document 92-26885 beginning on page 52764 in the issue of Thursday, November 5, 1992, make the following correction:

On page 52765, in the 3d column, in entry 12, "[Docket No. QF87-623-002]" should read "[Docket No. QF87-632-002]".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-02-4212-13; N-55815]

Realty Actions; Sales, Leases, etc.: Nevada

Correction

In the correction of notice document 92-18318 appearing on page 45878 in the issue of Monday, October 5, 1992, make the following corrections:

1. On page 34302, in the issue of Tuesday, August 4, 1992, in the third column, in the land description, under T. 44 N., R. 60 E., in Sec. 22, in the first line, "NE¼NE¼, NE¼" should read "NE¼NE¼NE¼".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229, 240, and 249

[Release No. 33-6962; 34-31327; IC-19032]

RIN 3235-AF34

Executive Compensation Committee

Correction

In rule document 92-25562 beginning on page 48126 in the issue of Wednesday, October 21, 1992, make the following correction:

On page 48133, in the first column, in the fifth line from the bottom, footnote 57 was not numbered.

BILLING CODE 1505-01-D

federal register

Tuesday
November 17, 1992

Part II

Department of Transportation

Federal Aviation Administration

Availability of Draft Environmental Impact Statement; Effects of Changes of Aircraft Flight Patterns Over the State of New Jersey; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 26987]

Availability of Draft Environmental Impact Statement; Effects of Changes of Aircraft Flight Patterns Over the State of New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Draft Environmental Impact Statement (DEIS) and Invitation to Comment.

SUMMARY: The FAA announces the availability for public comment of the Draft of the Environmental Impact Statement (EIS) required under section 9119 of the Aviation Safety and Capacity Expansion Act of 1990, Public Law 101–508. That section directs the FAA to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) on the effects of changes in aircraft flight patterns over the State of New Jersey as a result of the implementation of the Expanded East Coast Plan (EECP).

COMMENT PERIOD: Written comments on the DEIS must be received at the following address by January 22, 1993: Federal Aviation Administration, Office of the Chief Counsel: Docket Number 26987, 800 Independence Avenue SW., Washington, DC 20591.

During the Comment Period, the FAA will conduct six public hearings in New Jersey and a public meeting on Staten Island, New York to solicit comment of this DEIS. The dates, times, and locations of the hearings and the meeting will be announced as soon as final arrangements are completed.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Reavis, Program Manager ATM–700, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Telephone number 202–267–9367.

Any person may obtain a copy of the DEIS by submitting a request to the FAA contact identified above. The document is also available for review at the following public libraries:

Teaneck Public Library, 840 Teaneck Road, Teaneck, NJ 07868, Attn: Lucille Bertram

Newark Public Library, 5 Washington Street, P.O. Box 630, Newark, NJ 01701–0830, Attn: George Hawley

Parsippany-Troy Hills Free Public Library, P.O. Box 5303, Parsippany, NJ 07054, Attn: Dorothy Wanamaker

Piscataway Township Free Public Library, John F. Kennedy Memorial Library, 500 Hoes Lane, Piscataway, NY 08854, Attn: Mary Piekarski

Cherry Hill Free Public Library, 100 Kings Highway North, Cherry Hill, NJ 08034, Attn: Susan Lyons

Jersey City Public Library, 472 Jersey Avenue, Jersey City, NJ 07302–3499, Attn: Director's Office

Staten Island, New York Public Library, St. George Library Center, 5 Central Place, Staten Island, NY 10301, Attn: Mr. Lee

Camden Free Public Library, 616 Broadway, Camden, NJ 08103, Attn: Theresa Gorman

Vineland Free Public Library, 1058 E. Landis Avenue, Vineland, NJ 08360, Attn: Anthony Agnesino

Middletown Township Public Library, 55 New Monmouth Road, Middletown, NJ 07748, Attn: Barbara Steinberg

Free Public Library of the City of Trenton, 120 Academy Street, Trenton, NJ 08607–2448, Attn: Nan Wright

Ridgewood Public Library, 125 North Maple Avenue, Ridgewood, NJ 07450–3288, Attn: Robert D. Ross

Free Public Library of Woodbridge, George Frederick Plaza, Woodbridge, NJ 07195, Attn: Reference Desk

Elizabeth Public Library, 11 S. Broad Street, Elizabeth, NJ 07201

Paterson Free Public Library, Danforth Memorial Library, 250 Broadway, Paterson, NJ 07501, Attn: Steven Welch

Cranford Public Library, 224 Walnut Avenue, Cranford, NJ 07016, Attn: John Malar

Rochelle Park Public Library, 405 Rochelle Avenue, Rochelle Park, NJ 07882, Attn: Mary Boss

Runnemede Public Library, Broadway & Black Horse Pike, P.O. Box 119, Runnemede, NJ 08078, Attn: Joan Strater

Tinton Falls Public Library, 684 Tinton Avenue, Tinton Falls, NJ 07724, Attn: Eleanor Szabo

New Jersey State Library, Department of Education, 185 W. State Street, Trenton, NJ 08825–0520, Attn: Janet Toerff

Joint Free Public Library of Morristown & Morris Township, 1 Miller Road, Morristown, NJ 07960

Cape May County Library, Mechanic Street, Cape May Courthouse, NJ 08210, Attn: Tom Leonard

Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753, Attn: Elaine McConnell

Hunterdon County Library, Route 12, Flemington, NJ 08822, Attn: William Pyonteck

Sussex County Library, RD–3, Box 170, Route 655, Homestead Road, Newton, NJ 07860, Attn: Harold Neuschafer

Warren County Library, Court House Annex, Belevedre, NJ 07823, Attn: Reference Day Dept., Asha Bhargava

Atlantic City Library, 1 North Tennessee Avenue, Atlantic City, NJ 08401, Attn: Diane Spitler

Gloucester County Library, 200 Holly Dell Drive, Sewell, NJ 08080, Attn: Victoria Rosch

Somerset County Library, P.O. Box 6700, Bridgewater, NJ 08807, Attn: Elizabeth Griesbach

Salem Library, Broadway, Salem, NJ 08079, Attn: Ms. Fogg

Burlington County Library, 1257 Westwoodlane Road, Mt. Holly, NJ 08060, Attn: Ann Parkinson

SUPPLEMENTARY INFORMATION: The Aviation Safety and Capacity Expansion Act of 1990, Public Law 101–508, was enacted on November 5, 1990. Section 9119 of Title IX of this statute directs the FAA to "issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.".

On February 21, 1991, the FAA published notice in the **Federal Register** of its intention to prepare the EIS and to conduct three public meetings in March 1991 as part of the scoping process. 56 FR 7292. The dates and locations of those meetings were advertised in local newspapers and published in the **Federal Register** on February 26, 1991, 56 FR 8042. The meetings were held in Tinton Falls, Runnemede, and Cranford, NJ to cover a cross-section of the entire state.

Because of the high degree of public interest in the EIS, the FAA decided to hold two additional public scoping meetings in April 1991 in Rochelle Park and Parsippany, NJ respectively. The FAA again advertised these meetings in local media and in the **Federal Register**. 56 FR 15662.

The FAA took the unusual and unprecedented step of preparing and circulating a Post Scoping Document for public comment while the draft EIS was being prepared, although circulation is not required under NEPA, because of the unique geographic scope of this EIS being the entire state of New Jersey. The availability of the document was announced in the **Federal Register** on June 27, 1991. 56 FR 29521. Since this is a statewide EIS, and it was not feasible to hold scoping meetings in every city and town in the State, there were potentially many individuals who were unable to attend the public scoping meetings or to submit written comments by the deadline. By distributing a post scoping

document, it was also the FAA's intention to allow the public who did participate in the scoping process to verify that we had correctly interpreted the public's comments and concerns on this issue. The post scoping document identified the alternatives that would form the basis of the DEIS.

This very broad and complex EIS required the FAA for the first time to (1) assess the impact of enroute aircraft noise, as opposed to aircraft noise in proximity of an airport; (2) enhance its existing computer model, the Integrated Noise Model, specifically for this effort; (3) apply NEPA "after the fact" since the action being evaluated, the implementation of the EECP, was accomplished beginning in 1987; (4) assess the potential environmental impact of changes in aircraft flight patterns over an entire state for the first time.

Today we announce the availability of the DEIS for public comment. The DEIS summarizes the background and identifies the purpose and need for the action, reasonable alternatives, affected environment, and environmental consequences of the reasonable alternatives

The comment period for this DEIS will close on January 22, 1993, unless otherwise extended by the FAA. During the comment period, the FAA will conduct public hearings in New Jersey to solicit both written and oral comments on the DEIS. The FAA will also hold a public meeting in Staten Island, New York. The presentations at the hearing and the meeting will be transcribed and videotaped. All persons wishing to make oral presentations at the public hearings and the public meeting are strongly urged to provide a written copy of their statements at the hearing or at the FAA address provided in the COMMENT PERIOD section of this announcement. The locations, dates, and times of the public hearings and the meeting will be announced as soon as final arrangements are completed.

The FAA will consider and respond to all comments on the DEIS. Please note, however, that the most useful comments are those which provide facts and analyses to support the reviewer's recommendations or conclusions on specific topics contained in the document. Should any comments be received after the close of the comment period, FAA cannot assure that they will be considered or addressed in the final EIS.

The FAA will issue a final EIS that will include corrections, clarifications and responses to comments on this DEIS.

Issued in Washington, DC, on November 12, 1992.

Norbert A. Owens,

Deputy Associate Administrator for Air Traffic.

[FR Doc. 92-27755 Filed 11-12-92; 8:45 am]

BILLING CODE 4910-13-M

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LIST OF PUBLIC LAWS

Note: The list of Public Laws for the second session of the 102d Congress has been completed and will resume when bills are enacted into law during the first session of the 103rd Congress, which convenes on January 5, 1993.A cumulative list of Public Laws for the second session will be published in Part II of the **Federal Register** on November 23, 1992.

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** Service for Public Law Numbers is available on 202-275-1538 or 275-0920.